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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Periodic reports of States parties due in 1998

ARGENTINA*

[12 August 1999]

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* For the initial report submitted by Argentina, see documents CRC/C/8/Add.12 and 17; for its consideration by the Committee, see documents CRC/C/SR.177-179 and CRC/C/15/Add.35.

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Article 1. Definition of the child

1. All references to children in this report cover boys and girls without any gender differentiation.

2. In the words of the interpretive declaration made at the time of ratifying the Convention, "The Argentine Republic declares that the article must be interpreted to the effect that a child means every human being from the moment of conception up to the age of 18".

3. In this connection, Decree No. 1406/98 of 7 December 1998 declared 25 March "Day of the child to be born".

4. Argentina's current civil legislation recognizes:

(i) Minors: persons who have not attained the age of 21 years (art. 126 of the Civil Code);

(ii) Minors below the age of puberty: persons who have not attained the age of 14 years (art. 127 of the Civil Code);

(iii) Adult minors: persons between the ages of 14 and 21 years (art. 127 of the Civil Code).

The legal incapacity regime, which will be discussed under article 12 of the Convention, is based on these provisions.

Article 2. Application of the Convention without discrimination

5. The Preamble to Argentina's Constitution states:

> "We, the representatives of the people of the Argentine Nation, gathered in Constituent General Congress by the will and election of the provinces which compose the Nation, ... in order to ... provide for the common defence, promote the general welfare and secure the blessings of liberty for ourselves, for our posterity, and for all persons throughout the world who wish to dwell on Argentine soil".

6. In Chapter 1 of the Constitution, on "Declarations, rights and guarantees", article 20 states:

> "Foreigners enjoy in the territory of the Nation all the civil rights of citizens: they may exercise their industry, trade and profession; own, buy and sell real property; navigate the rivers and coasts; freely practise their religion; make wills and marry under the laws. They are not obliged to accept citizenship, or to pay extraordinary compulsory taxes".

7. Where non-discrimination is concerned, it must be pointed out that the enjoyment and exercise of all the human rights protected under the legislation in force in Argentina are provided for in respect of all "inhabitants" of the Republic. As the Supreme Court of Justice has defined it, the term "inhabitants" covers both Argentine nationals and foreigners and refers to the persons residing in the territory of the Republic with the intention of remaining in it, even though they may not have established full legal domicile.

8. Under article 16 of the Constitution all inhabitants are equal before the law. The Supreme Court has interpreted this provision to mean that the guarantee of equality before the law consists in establishing equal legal treatment for persons in largely similar circumstances, so that this guarantee does not prevent the Legislature from treating differently situations which it considers different,

provided that the distinctions are not based on arbitrary criteria, undue favour or disfavour, personal or class inferiority or privilege, or unlawful persecution.

9. As to the provisions of the Constitution which grant recognition to the rights protected by the Convention on the Rights of the Child, the incorporation of article 75, paragraph 22, in the Constitution was an amendment of fundamental importance, as reported in paragraph 44 of Argentina's core document (HRI/CORE/1/Add.74):

> "... treaties and concordats take precedence over laws. In the conditions of their validity, the American Declaration of the Rights and Duties of Man, the Universal Declaration of Human Rights, the American Convention on Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocol thereto, the Convention on the Prevention and Punishment of the Crime of Genocide, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Cruel, Inhuman or Degrading Treatment or Punishment, and the Convention on the Rights of the Child have constitutional rank, do not abrogate any article of the first part of this Constitution, and shall be interpreted as complementary to the rights and guarantees recognized thereby. They may be denounced, if necessary, only by the Executive, following approval by two thirds of the members of each Chamber.
>
> After being approved by Congress, other treaties and conventions on human rights shall require the vote of two thirds of the members of each Chamber in order to acquire constitutional rank".

10. Following the 1994 reform of the Constitution, the Convention enjoys constitutional rank, does not abrogate any article of the first part of the Constitution, and must be interpreted as complementary to the rights and guarantees recognized thereby. The wording of paragraph 22 cited above, quite apart from what has been expressly recognized by the ordinary courts and the Supreme Court, establishes with complete clarity the possibility of invoking the Convention before the Argentine courts.

11. Furthermore, the Supreme Court has established that "...the harmony or concordance between the treaties and the Constitution is a fundamental consideration. This is in fact clear from the reference to the treaties which are invested with constitutional rank and therefore may not and have not entailed the abrogation of any provision of the Constitution, for that would amount to a contradiction which could not be attributed to the framers of the Constitution. (...) it must be interpreted to mean than the provisions of the Constitution and those of the treaties enjoy the same rank and complement each other, and that they may not therefore displace or destroy each other...". (Monges, Analía M. v. U.B.A., decision 2314/95, judgement of 26 December 1996).

12. The amendment introduced in article 75, paragraph 23, of the Constitution added to the powers of the Congress:

> "To enact and promote measures of affirmative action guaranteeing genuine equality of opportunity and treatment and the full enjoyment and exercise of the rights recognized by this Constitution and by the international human rights treaties in force, particularly in respect of children, women, older persons and disabled persons".

Governmental and joint bodies responsible for the introduction of specific programmes for children

The Federal Council for the Protection of Children and the Family

13. This Federal Council met in the city of Mendoza from 9 to 12 December 1992. In addition to the preparatory work and the drafting of the conclusions of the federal encounter on children and adolescents, attended by members of the executive authorities of the State, the provinces and the municipalities, representatives of various churches and religious denominations, NGOs, UNICEF, and professionals and social workers in general, the Council drafted and unanimously decided to propose to the national Government, the member governments of the provinces and the community at large a programme of targets for the period 1993-2000 in implementation of Act No. 23.849, which approved the Convention; under this programme it will be necessary:

(i) For the State to produce policies on children and the family in fulfilment of its mandatory responsibility for such policies;

(ii) For the State to encourage the development of community, municipal and district networks for the comprehensive care of children and adolescents;

(iii) For the State to promote the involvement of legally recognized bodies in policy execution and supervise and control their activities, which must be consistent with the principles of the Convention;

(iv) For the State, acting through the specialized technical administrative agency, to enact before 1995 regulations on the supervision and control of all NGOs working with children, in order to ensure the effective implementation of policies consistent with the principles of the Convention;

(v) To focus measures on the families at greatest risk and devise prevention programmes to strengthen such families as a fundamental social group and the natural context for the growth and well-being of all their members, in particular their children; more budgetary resources must be allocated to these programmes than are allocated to more general assistance programmes;

(vi) To introduce reforms to adapt education to children's real needs;

(vii) To introduce changes in the existing legislation on the employment of minors, with respect both to its substantive and to its formal aspects, to ensure that it takes full account of the principles of the Convention and the constitutional guarantees accorded to children as subjects of law (1995);

(viii) To reformulate in all the provincial jurisdictions[1] the organizational-functional governmental (administrative and judicial) and non-governmental arrangements in order to adapt them to the Convention, bring greater consistency to the formulation of policies for children and improve the coordination of their implementation;

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[1] [The 23 provinces and the Autonomous City of Buenos Aires.]

(ix) To eliminate before 1996 the practice of holding children aged under 18 who have broken the criminal law in police stations and in prisons and institutions run by the prisons service;

(x) To devise in all the jurisdictions alternatives to the practice of holding juveniles in conflict with the criminal law in institutions, including measures of immediate evaluation, release on probation, specific treatment measures, community orders and other measures not involving deprivation of liberty; interdisciplinary teams must be available in all cases to operate the measures;

(xi) In the exceptional cases in which the temporary confinement of children aged under 18 is necessary, to apply the United Nations Minimum Rules for the Treatment of Juveniles deprived of their Liberty;

(xii) Gradually to reduce the number of children held in governmental or non-governmental care institutions by furnishing support to their families and introducing more programmes offering alternatives to placement in an institution;

(xiii) To create specific programmes for the care of street children in all the jurisdictions where they do not yet exist;

(xiv) To eliminate all exploitation of child labour by introducing monitoring mechanisms and by encouraging every kind of alternative arrangement to enable children to attend school, obtain work training and support themselves and their families, and to facilitate their gradual integration.

The Federal Social Development Council

14. A meeting was held on 19 July 1996 for senior officials of the social development offices of the provincial jurisdictions and representatives of the Secretariat for Social Development. The meeting agreed to create the Federal Social Development Council with a view to coordination of social development activities throughout the country by securing agreement among the various jurisdictions on criteria for public social policy.

The National Council for Children and the Family

15. This National Council was created by Decree No. 1606/90 in fulfilment of the commitment assumed by ratification of the Convention. Its functions and duties were endorsed by Decree No. 775/93, which accorded it economic and financial independence in the administration of its resources as a decentralized agency of the national public administration. The Council's functions and duties were described in detail in the previous report (CRC/C/8/Add.2 and 17).

The Office of the Procurator-General of the Nation

16. On 4 August 1994 the Procurator-General of the Nation issued a resolution containing a general instruction to all officials of his Office to the effect that they should apply in all the cases in which they act the rights and guarantees accorded to children in the Convention and incorporated in the Constitution in article 75, paragraph 22. They must take account of the Convention's constitutional rank and its primacy over national procedural legislation and over any legal provision which conflicts with it. (A copy of this resolution is annexed to the report.)

The Ombudsman for the Rights of the Child

17. In addition to the measures described above, there is another measure which demonstrates even more clearly Argentina's commitment to its children and to its international obligations: the action taken by the national Chamber of Deputies when it adopted without amendment on 23 September 1998 a bill providing for the creation of the post of Ombudsman for the Rights of the Child, who will be concerned with the protection and promotion of the children's rights established in the Constitution, the Convention and other international treaties.

18. According to this bill the Ombudsman will be nominated, appointed and removed by the National Congress by a two-thirds majority of the votes of the members present in each of the Chambers.

19. The Ombudsman will be supported by an interdisciplinary team consisting of a social worker, a doctor, a paediatrician, a psychologist, a lawyer, an educational psychologist, a person qualified in educational sciences, and representatives of any other discipline which may be regarded as necessary for the efficient conduct of this work.

20. The Ombudsman will not have to take orders from any person or comply with instructions from any authority. Accordingly, he will not accept intervention by any State agency which might imply in any way an intention to control him and restrict the discharge of his functions.

21. It will be for the Ombudsman alone to determine which cases to take action in. Application to the Ombudsman will be free of charge.

22. The National Congress will appoint a deputy to the Ombudsman to assist him in his work and replace him in the event of illness or absence or for any other reason.

23. The bill establishes a number of functions for the Ombudsman:

- Investigation, acting of his own accord or on a complaint, of any acts or omissions of the public administration or of non-governmental bodies which threaten, disregard or infringe the best interests of the child;

- Promotion and protection of children's rights by making representations and recommendations to the competent public authorities in order to safeguard the enjoyment and exercise of these rights;

- Protection of children's individual and collective interests by virtue of his power to take the actions referred to in article 43 of the Constitution;

- Priority attention to the effective protection of children in vulnerable circumstances or suffering a physical or mental disability;

- Making the necessary representations to the official agencies responsible for monitoring and classifying public performances and newspaper, radio, television and cinema advertising in order to protect the rights of the child;

- Supervision of the private and public institutions caring for children by providing them with temporary or permanent shelter or by carrying out non-institutional care measures, and reporting to the competent public authorities of any irregularity which threatens or infringes children's rights;

- Publicizing the situation and needs of children while at the same time promoting and publicizing the rights of the child through the mass media, publications, seminars and conferences, with a view to encouraging the State and the community to promote and protect these rights;

- Receipt of any kind of application made by a child and any report made in connection with a child either in person or by a permanent free telephone help-line, with immediate action to be taken on such application or report;

- Proposal of legislative and other changes necessary for the adaptation of the legislation on children to the Convention.

24. The bill also provides that all public bodies and public or private physical and juridical persons are obliged to collaborate expeditiously and as a matter of priority with the Ombudsman in his investigations and inspections.

25. To this end the Ombudsman and his deputy will be empowered to request records, reports, documents and background information and any other items which they deem useful for the purposes of their investigations. They may carry out inspections and checks and any other measure likely to assist an investigation.

26. The bill provides that after verifying the accuracy of a report the Ombudsman must:

- Initiate the civil or criminal proceedings necessary for safeguarding the rights of the child through the Government Procurator's Office;

- Report any irregularities found in the bodies responsible for communicating to the Ombudsman the results of investigations;

- Formulate recommendations or proposals to public and private bodies concerning the matters under investigation;

- Keep the public and the persons who lodged the complaint informed about the results of the investigations and the measures taken. He may take space on radio and television and in the press for this purpose.

27. The provincial authorities have created a variety of agencies to work in this area.

Province of Mendoza

28. On 28 November 1995 Mendoza adopted its Children's Act (No. 6.354), which was the first piece of provincial legislation adapted to the Convention. The following are among the most important changes introduced by the Act:

- It incorporates the doctrine of the comprehensive protection of the rights of the child and discards the doctrine of the irregular situation;

- It transforms needs into rights by placing at centre stage the legal and social assertion of the rights contained in the Convention, and proposes technical and legal instruments to ensure the defence of these rights;

- It lays the foundations for the non-institutional treatment of children in article 2 of the Act, which states that "the purpose of policies for children and adolescents shall be to enable them to remain with their family", and posits support for the family as the big challenge for social policies and programmes for children;

- It limits the intervention of the justice system in respect of the separation of a child from his family for reasons of poverty, and separates social and family problems from crimes;

- It introduces basic constitutional guarantees accorded to citizens but sometimes disregarded in the case of juveniles in conflict with the criminal law: the presumption of innocence, secrecy of proceedings, preliminary hearings, flexible and speedy proceedings, rehabilitation and reeducation, and probation;

- It marks progress towards the formulation of a new concept of public policy understood as the harmonization of the efforts of the Government and civil society.

Province of Chaco

29. Act No. 4.334/96 declared the Convention to be "of benefit to the province" and approved a programme of "targets for implementation of the Convention on the Rights of the Child", which contains the following measures:

- Support for family groups in vulnerable circumstances, including coordination work with various subprogrammes, such as the assistance and protection provided for the victims of domestic violence under the "Solidarity Network" programme;

- The non-institutional care of children at greatest social risk;

- The prevention of abandonment by means of assistance for teenage mothers at risk designed to preserve the mother-child relationship;

- Removal of the problems of juveniles from the purview of the courts and elimination of the practice of holding juveniles deprived of their liberty in unsuitable places;

- Prevention and care services for children exhibiting conduct which places them at risk;

- Opening-up of the institutions and involvement of civil society by means of coordinated activities with NGOs, religious institutions, private educational establishments, and society at large.

Province of Salta

30. According to the information received from the provincial authorities, the provincial legislation and policies are currently undergoing harmonization.

31. The centralization of the administration and execution of the province's programmes is impairing the independence of the municipalities in respect of the implementation of the social policies of the Interior Secretariat. In the light of this difficulty the provincial government ordered the decentralization of the institutions of the Under-Secretariat for Family Development, which include old-peoples' homes and children's day-care centres and homes. In addition to this decentralization, measures are being taken to end the practice of keeping children in institutions and to promote alternative arrangements, transforming the day-care centres into family development centres.

32. Without prejudice to these developments, intersectoral meetings are being held for representatives of governmental and non-governmental bodies and the three powers of the State, NGOs and intermediate institutions. Two committees have been set up to study the drafting of a children's bill to give effect to the comprehensive protection model. Within this model the necessary monitoring arrangements will be made with the subsidized organizations and training will be provided for the non-subsidized ones, in collaboration with the national authorities, which support a number of programmes (PRANI, FOPAR, etc.).

33. The Honrar la Vida foundation, which is supported by the Interior Secretariat has held "Children's rights days" and a "Children's rights march" with extensive grass-roots participation. The Under-Secretariat for Family Development is planning to establish an office to publicize the rights of the child and increase people's awareness of them, and to produce alternative programmes for tackling the problems which arise from violations of these rights.

34. Statistical information from this province will be found in the annex.

Province of Tierra del Fuego, the Antarctic and the South Atlantic Islands

35. The province's Constitution states:

> "On children:
>
> Article 18: Children have the right to integrated protection and training provided by and at the expense of their families; they deserve special treatment and respect for their identity, and the State shall prevent and punish any form of humiliation or exploitation of children.
>
> Children are entitled to have the provincial State provide guarantees of their rights through its preventive and subsidiary actions, especially when they suffer lack of protection, neglect, abuse of parental authority, or are subject to any form of discrimination.
>
> If a child lacks protection, the provincial State must make good this lack, either in adoptive or foster families or in homes staffed by qualified personnel; the children's training must be based on the values of the Argentine Nation, solidarity and friendship, without prejudice to the obligation to delegate measures to and seek inputs from the children's families.
>
> On young people:
>
> Article 19: Young people are entitled to have the provincial State promote their integrated development and provide opportunities for self-improvement and for creative contributions, with a view to their comprehensive democratic, cultural and vocational training, the fostering of a national awareness of the need to build a fairer, more supportive and modern society rooted in their environment, and their effective participation in community and political activities.
>
> Any work done by young people is regarded as part of their education and training. Payment for education and training shall not be permitted under any pretext".

Autonomous City of Buenos Aires

36. The City's Constitution states:

> "Chapter 10: Children and adolescents
>
> Article 39: The City recognizes children and adolescents to be active holders of their rights and guarantees them comprehensive protection and the right to be informed, consulted and heard. Their privacy shall be respected. When in difficulties or under threat they may themselves request intervention by the competent agencies.
>
> Public policies for children and adolescents shall be given priority over other policies and must be designed to help them to remain with their own families and ensure that:
>
> 1. The City's responsibilities towards children and adolescents deprived of their family is met through the provision of non-institutional care;
>
> 2. Protection is furnished to victims of sexual violence and exploitation;
>
> 3. Measures are taken to prevent and eradicate trafficking in children.
>
> The law shall provide for the creation of a specialized agency to promote and coordinate the policies for the sector, which shall have decentralized units to carry out the activities on an interdisciplinary basis and with the participation of the persons involved. It would be mandatory for such an agency to intervene in legal actions concerning maintenance.

Article 3. Best interests of the child

37. The information given under article 2 of the Convention provides a picture of the various national and provincial regulations and programmes founded on the best interests of the child.

38. The firm commitment of the national courts to provide special protection for children's best interests is reflected in the variety of jurisprudence establishing such protection:

> "The best-interests principle is weak in relation to other weighty influences, such as power and money, even though such influences may operate in the most irreproachable and transparent legality. There is therefore a need for firm and decisive jurisprudence which shows the community which road must be followed for the protection of its children, especially when the school and the family appear powerless to check the advance of journalistic enterprises, which cannot be allowed to interfere in children's lives under cover of the right to freedom of expression and the right to publish news without prior censorship". (CNCiv., Chamber C, 3 October 1996 - P., V.A.)
>
> "Children are entitled to special protection. The defence of their rights must therefore prevail as the primary consideration in any judicial matter, so that in any conflict of interests of equal weight the moral and material interests of the child must be given priority over any other circumstance of the case." (CNCiv., Chamber A, 28 May 1996.)

Province of Chaco

39. The institutions providing day care for children aged three months to 12 years while their parents are at work are covered by the "Casas del Sol" (Houses of the Sun) subprogramme. A start was made on the reorganization of this care in 1997, with the interest of the children as the focus of the work.

40. A framework programme was formulated for this purpose; it is guided in legal respects by the province's Statute on Children and the Family and by the Convention.

41. Since the Casas del Sol comprise 43 institutions in various parts of the province (30 localities), it was decided that the reorganization should proceed in stages. Each stage involves a certain number of institutions, where the situation is subjected to study and analysis and planning exercises are conducted with regard to its social and its administrative, educational, nutritional, regulatory and staffing aspects.

Province of Chubut

42. Article 6 of the Act on the integrated protection of children and the family establishes that the best interests of children and adolescents shall be regarded as primordial in all measures affecting them which public or private social agencies and judicial, administrative or legislative organs take or intervene in.

Article 4. Economic, social and cultural rights. General framework

43. Argentina is going through a period characterized by a number of important macroeconomic achievements in the framework of the neo-liberal economic adjustment established by the Government. The period is one of economic stability, inflation having been brought under control as one of the consequences of the Convertibility Plan and the country's economic dynamism; for the moment, the outstanding need is to improve social investment. Important elements of this strategy are the reform of the State, the privatization of public enterprises, and the decentralization of powers, responsibilities and services to the provincial and municipal authorities.

44. Despite progress in curbing inflation and improvements in macroeconomic variables, there has been little significant improvement in living conditions: sizeable segments of the population continue to live below the poverty line, and unemployment, underemployment and informal and unregistered employment have increased, while at the same time real wages have fallen and the housing deficit has become an increasingly complex problem.

45. Furthermore, among marginal groups, particularly in rural areas and poor peri-urban areas and suburban and urban "squats", where there is less economic self-sufficiency and greater social frustration, old problems such as chronic nutritional deficiency and malnutrition, iodine and iron deficiency, food poisoning, violence, desertion and child abuse have persisted.

46. A process of reform got under way in the education sector in 1997. As yet, no positive changes in educational levels have been noted in comparison with the preceding period and there are wide variations from province to province.

47. Health service coverage is high in the urban areas where the insured population is concentrated, although there are significant pockets of inadequate care in poor sectors of the Buenos Aires conurbation, rural areas and the interior of many of the provinces.

48. The health infrastructure is very extensive and widely dispersed, which explains the lack of up-to-date information on coverage. In 1986, according to the Ministry of Health and Social Welfare,

Argentina had 6,500 outpatient clinics, 3,180 hospitals and 147,000 beds. In January 1992 the Ministry transferred all medical services to the municipality of Buenos Aires and the provinces. The proposal to deregulate the welfare system may well result in an entrenchment of inequities under a system that would give the user freedom of choice and provide care packages based on the ability to pay. A number of partial studies point to shrinking health service coverage among younger groups. At the same time, the public sector is steadily deteriorating.

49. For specific information on the rights guaranteed under this article, see the sections of this report on articles 6, 24, 26, 27, 28, 29, 31 and 32.

Article 5. Respect for the responsibilities, rights and duties of persons legally responsible for children

50. As will be discussed under articles 18, 19 and 20, the current legislation addresses the responsibilities, rights and duties of parents and other persons legally responsible for children.

Article 6. Right to life

51. This section reports on the programmes introduced to reduce infant mortality, increase life expectancy, and control malnutrition and epidemics. The information given here was included in the second periodic report of the Republic of Argentina under the Covenant on Economic, Social and Cultural Rights submitted in April 1997 (E/1990/6/Add.16).

Factors affecting health

52. As mentioned earlier, despite progress in curbing inflation and improvements in macroeconomic variables, there has been little significant improvement in living conditions: sizeable segments of the population continue to live below the poverty line.

Health indicators

53. The slow decline in infant mortality (23.9 per thousand live births in 1992, 22 per thousand in 1994) and in the gross mortality rate are continuing, and life expectancy at birth is increasing (68 years for men and 74.8 for women). There are still substantial levels of infant mortality due to avoidable causes (in 1990, only 16% of neonatal deaths and 23.9% of post-neonatal deaths were due to non-avoidable diseases) and substantial differences between provinces (in Tierra del Fuego 11.2 per thousand live births, and in Chaco 33.5 per thousand in 1992 and 31.4 per thousand in 1994). (See tables 45 and 46 in the annex.)

54. Health conditions remain unchanged. The main causes of death continue to be heart disease, malignant tumours, cerebrovascular disease and accidents. Deaths due to arteriosclerosis as a single disease and to certain infections during the perinatal period have declined. The incidence of AIDS has grown; it is estimated that every day there are an average of three new cases, and between 15 and 45 new cases of infection.

55. Generally speaking, the incidence of preventable diseases remains stable thanks to the Immunization Programme, except for tuberculosis, which is increasing. The number of cases of meningoencephalitis, malaria, leprosy and leishmaniasis has remained stable. The number of cases of cholera has declined in relation to the previous period (2,008 in 1993, and 847 up to September in 1994).

56. Chagas's disease continues to be the most endemic disease in Argentina, although its geographical incidence is largely confined to the central valley of Catamarca and its serological prevalence continues to decline.

57. Accidents and violence still occupy fourth place as causes of death and give rise to serious concern, both because they can be avoided and because of the loss of years of life which they cause. There has been no change in the problems and levels of dental and oral pathology.

Plans and priorities for improving the nation's health

58. On the basis of the definition of the substantive and instrumental health policies decreed in 1992, the Government has geared its efforts to stimulating a number of changes in the structure and functioning of medical services, through reform measures such as the deregulation of social projects, decentralization programmes and introduction of public hospital tariffs (self-management) and by ensuring the quality of care, together with the strengthening of the capacity for legislation, regulation and control of the principal management units at the central level. The strategic and programmatic guidelines and priority policies of the Pan-American Health Organization (PAHO) emphasize approaches which link health needs and the integral development of societies, the restructuring of health systems through decentralization strategies, local participation and coordination in order to gain in equity, effectiveness and efficiency, the concentration of efforts on programmes geared to priority problems and groups (targeting), and promoting efficient forms of investment in the improvement of the environmental situation. The priorities of the current period of government are defined by integration of the two thrusts of development policy.

Infant mortality statistics: 0 to 11 months

59. The national infant mortality rate was 33.2 per thousand in 1980, 26.2 in 1985, 24.7 in 1991, 22.9 in 1993, 22.0 in 1994, and 20.9 in 1996 (see annexes).

60. One noticeable feature is the difference in the death rate by sex. In all regions of the country the male infant mortality rate is higher than the female by an average of approximately five points.

61. From 1980 to 1991 the rate for the country as a whole decreased by about 25%, for Chaco by 40% and for the Federal Capital by 18%.

62. The average rate for 1996 (20.9 per thousand) conceals some significant regional variations. Higher-than-average rates are found in the North-East (30) and the North-West (30.5), intermediate values in Cuyo (24.6) and La Pampa (23.5), and the lowest in Comahue (20), Patagonia (19.1) and the Federal Capital, with a rate of 15.2 per thousand live births. The very low rates for some provinces having high overall poverty indicators suggest under-registration of births.

63. In 1996, there was a total of 14,141 infant deaths (20.9 per thousand), 8,553 of them occurring during the first 28 days of life (neonatal mortality). The greatest concentration of deaths occurs between 0 and 6 days (early neonatal mortality), most within the first 24 hours.

64. The decrease in the mortality rate is due to the decrease in immuno-preventable diseases as a result of the development of specific vaccinations and to the decline in the incidence of diarrhoea and pneumonia among both females and males. On the other hand, neonatal mortality remains stable despite technological progress and the relative ease of its avoidance.

65. Perinatal causes are responsible for 50% of child deaths. They are the leading cause of mortality (not only in the first year of life but also up to age 10). The most important problems in this area are

premature birth and low birth weight, together with a high percentage of maternal deaths. These two problems present a health challenge that cannot be met by paediatricians and neonatal specialists alone. It is estimated that some 70% of such deaths are avoidable, especially by means of pregnancy checks and proper care during childbirth.

66. Very low birth weight (less than 1,500 grams) accounts for 0.73% of the total, and low birth weight (less than 2,500 grams) for 5.6%. In 16.16% of cases, birth weight is not known: the provinces of Santa Fe, Santiago del Estero and Catamarca do not report the weight of newborn babies. It is estimated that if the quality of this information was improved the figure for low birth weight would be about 10%.

67. See the annexes.

Children immunized (with breakdowns)

68. See the annexes on vaccination.

69. Life expectancy (by urban and rural area, socio-economic group and sex)

Estimated life expectancy at birth

	Males	*Females*
1990-1995	68.60	75.70
1995-2000	69.65	76.75

Human resources in use during the 1980s, by sex and final level of education (percentages)

Education level	*Women*	*Men*
Total	100.0	100.0
Did not complete primary	1.4	0.5
Completed primary	36.7	7.5
Did not complete secondary	11.4	3.4
Completed secondary	13.2	4.3
Did not complete tertiary	0.2	0.1
Completed tertiary	3.7	0.9
Did not complete university	1.5	1.9
Completed university	25.2	79.8
Not specified	6.7	1.6

Maternal mortality

70. Unlike other Latin American countries, the Argentine Republic has a low average fertility rate (2.8 children per woman), compared to which the maternal mortality rate is high. In 1996, the rate for the country was 47 per 100,000 live births; although the rate has fallen, it is still high by international

standards, especially as under-registration is estimated at 50%. The Regional Plan of Action to reduce maternal mortality in the Americas proposed a reduction of 30% by 1995 and 50% by 2000.

71. In 1996, 317 maternal deaths were recorded, 117 of them due to miscarriages and two thirds to obstetric causes. Seventeen of the deaths were attributed to indirect obstetric causes. Mortality was highest among women aged over 35.

72. In 1980, La Pampa region accounted for 39% of maternal deaths, followed by the North-West with 26.59% and the North-East with 19.38%. In 1985, the rate in La Pampa region rose to 40.59%, the North-West accounted for 25%, and in the North-East the rate rose slightly to 21.35%. In 1991, La Pampa fell to 28% and the North-West to 24%, while the North-East rose to 30.51% of the total. These statistics should be viewed in the light of the differences between the regions in terms of population distribution and fertility.

73. While it is true that the maternal mortality rates fell over the decade, it is also the case that in the event of complications women were referred to the more sophisticated institutions in their area.

Problems of under-registration

74. Under-registration of maternal mortality, a problem recognized in countries whose information systems are more efficient than Argentina's, occurs when there is a failure to report the death of a woman aged 15-49 resulting from pregnancy, childbirth or puerperal complications within 42 days of the birth (the time limit for maternal mortality).

75. Deaths from infections and anaesthetic accidents, for example, are more widespread among women aged 15-49 than among men in the same age group. These deaths may be connected with the reproductive process and they should be analyzed in order to determine their influence on maternal mortality rates.

76. A study of the under-registration of maternal deaths found that the official records put the maternal mortality rate in the Federal Capital in 1985 at 50 per 100,000 live births (40 maternal deaths). On examination of the medical records, the rate was readjusted upwards to 91.4 per 100,000 live births (75 maternal deaths). In other words, under-registration for that time and place was 53.3%.

Maternal deaths and quality of care

77. The same study found that the causes of maternal deaths related either to miscarriage or to delivery. Caesarian sections accounted for 70% of the latter. The miscarriage rate was calculated at one for every four or five deliveries, which gives a rate of 122-152 deaths per 100,000 miscarriages.

78. The mortality rate for Caesarian sections is estimated at 77-79 deaths per 100,000 live births, while the rate for vaginal deliveries is 13-17 per 100,000 live births. Both these rates are higher than those recorded in developed countries.

79. In terms of clinical causes, 38% of deaths were due to miscarriages and 21% to septicaemia. Mortality from miscarriage is 25% above standard-age adjusted rates (England and Wales) and mortality from septicaemia is 18 times higher than the standard.

80. This difference in mortality rates is related to variations in the quality of care in the health services. Septicaemia is the leading cause of death in both normal vaginal deliveries and Caesarian sections. It was estimated that inadequate medical attention was involved in 44% of the case histories of miscarriage and in 26% of the cases of septicaemia. One recurrent factor was noted: the inappropriate

use of antibiotic treatment in terms of both type and dosage, a shortcoming that reveals a wide gap between advances in the understanding of infection and the application of this new knowledge. There was also a lack of standard guidelines to aid in surgical decision-making. Decisions relating to surgery should be a component of the treatment plan and not a last resort.

81. Of the maternal deaths analyzed, 72% corresponded to women from low-income segments of the population and 13.8% to women from middle-income segments. The services available to higher-risk groups are of lower quality and less able to deal effectively with problems.

Place of childbirth

82. Hospital births increased by 42.5% to cover 97% of all births in 1996. Births in governmental establishments (national, provincial and municipal hospitals) account for just over 50% of the total.

83. The rate of home births is very low (1.8% in 1996) and even this rate varies widely according to region, representing a quarter of all births in Santiago del Estero, for example. Hospital births have increased in number. Home births remain at high levels in the provinces with the highest rates of infant mortality.

Infant malnutrition

84. Malnutrition is one of the causes of infant mortality, but Argentina is not in a position to conduct a comprehensive study of the nutritional health of mothers and children owing to the lack of suitable records in several provinces and to variations in the indicators and ranges used from one province to another. Progress is being made towards the keeping of comparable records of malnutrition rates for at least the most vulnerable age group - children aged under two years.

85. Nutritional health is assessed mainly through anthropometric data (height and weight measurements), which are compared with standard measurements for normal growth.

86. The only information available consists of selective studies of specific geographical areas or population groups and information from primary health care records in a few provinces.

87. One 1991 study, using information provided by the managers of the Maternal and Child Programme in a few provinces, indicated the following situations:

Salta	0-2 years: overall prevalence of 18%; 2-5 years: 10%
Jujuy	0-5 years: about 19%

Both provinces are in the North-West region, where nutritional deficiencies are among the five main causes of death in both girls and boys in the 0-9 age group.

Comahue region

Neuquén	First year of life - 9%
Río Negro	First year of life - 18%

Patagonia region

Chubut	First year of life: 7.1%; 1-2 years: 15%; 2-4 years: 20%

88. Low birth weight is a direct indicator of maternal malnutrition and represents a risk for newborn babies.

89. See the annex: National Commitment to Mothers and Children; and National Plan of Action for Mothers and Children.

Measures taken to reduce the rates of still-births and infant mortality

90. The following measures have been taken by the Government, through the Under-Secretariat for Community Health of the Ministry of Health and Social Welfare, to reduce the rates of still-births and infant mortality and enhance children's development:

Publications

- National Commitment to Mothers and Children;
- National Plan of Action for Mothers and Children;
- Principles of Perinatology (in six volumes);
- Handbook of Nutritional Training;
- Training Module for Breastfeeding.

Training

- Transfers between provincial jurisdictions;
- Direct training by the Office for Mothers and Children.

Data processing

- Transfer of funds for the purchase of computer equipment;
- Implementation of the computer network covering the perinatal period, children, adolescents and nutrition.

Nutritional support

- Transfer of funds to the provinces for the purchase of powdered milk to guarantee the supply under each programme.

Breastfeeding

- Advisory Commission on Breastfeeding;
- The "Mother-and-child-friendly hospitals" project: 10 hospitals evaluated.

Equipment

- Transfer of funds for the purchase of low- and medium-tech equipment.

Medicines

- Purchase of medicines for perinatology and nutrition programmes, acute respiratory infections, control of diarrhoeal diseases, etc.

Evaluation of services

- The efficiency of the maternal and child health services is evaluated by using the PAHO evaluation handbook to detect and identify the main deficiencies in the following areas: physical plant, human resources, programming standards and procedures, administration, supplies, and health education.

Management audit and monitoring

- The aim is to verify the use of the transferred funds and the degree to which the different programmes have been implemented.

Evaluation of target achievement: consolidation of target indicators

- Meetings were held throughout the country with the programme heads from each province to agree on the indicators (April/June) and later in the year (October) to evaluate the target achievement.

91. For information on children at risk, see the information supplied under article 10 concerning the activities of the National Council for Children and the Family.

Measures taken for the prevention, treatment and control of epidemic, endemic and occupational diseases

92. In 1993 and 1994, tripartite national meetings were held at the initiative of PAHO for the purpose of drafting a national workers' health plan. The following were the plan's objectives:

(i) To control and reduce occupational hazards;

(ii) To determine the priority to be given to the promotion and protection of health in the labour sector; and

(iii) To improve the workers' sickness insurance scheme.

Argentina also participated in the tripartite regional workers' health meeting held in Porto Alegre, Brazil, in 1993. Representatives of workers, employers and the Ministries of Health and Labour of

Brazil, Chile, Paraguay, Uruguay and Argentina met to draw up health strategies for the region's workers.

93. Argentina has the following programmes to provide disadvantaged groups with access to health services:

(i) Non-contributory pension schemes. These benefits are designed to meet the needs of the persons covered by special pension legislation (mothers with unmet basic needs and more than seven children, persons aged over 80, disabled persons, etc.) by providing pensions and medical cover;

(ii) Subsidies to institutions to support projects of governmental and non-governmental bodies;

(iii) Personal subsidies to meet emergency situations affecting persons living in extreme poverty.

Measures concerning education in the existing health problems and means of preventing and controlling them

94. The Under-Secretariat for Community Health of the Ministry of Health and Social Welfare has carried out, as part of its health resources and programmes activities, a number of projects for the production and dissemination of educational materials, including:

Journals

Health Education, No. 55, 40,000 copies. Main topic: "Cholera". Country-wide distribution through the provincial health education departments and the formal education system;

Health Education, No. 56, 40,000 copies. Main topic: "AIDS". Country-wide distribution.

Pamphlets

Maternal and Child Health;

Breastfeeding;

Be careful of the Sun;

Lice Infestation;

Malaria.

The pamphlets are distributed nation-wide, and 20,000 copies of each were printed.

Publication of technical reports intended specifically for health-care professionals:

Health Education, No. 1 (1995); topic: "AIDS. The epidemic of modern times";

Health Education; topic: "Domestic violence";

In preparation: "Alcoholism", "Tobacco addiction" and "Food safety".

Guidance is also provided in the various Ministry and NGO policy areas.

The media

Argentina's educational television system, a branch of the Media Secretariat of the Office of the President, has produced free television spots on: (a) cholera; (b) Argentine haemorrhagic fever; (c) alcoholism; (d) vaccination; and (e) accidents. Spots on oral health and accidents in the home are in preparation.

Annual vaccination weeks (26 June to 2 July). An intensive media campaign is conducted throughout the country.

Press releases on various health-related topics, including: World Health Day; prevention and treatment of heatstroke; carbon monoxide alert; breastfeeding week, etc.

Public services, principally for teachers and schoolchildren and representatives of public welfare organizations. Total consultations during the first half of 1996: 664.

Health theatre: technical support is given to independent groups of stage actors and directors for the scripting and staging of a play about alcoholism, in cooperation with the CUIDA programme of the Office for the Promotion and Protection of Health.

Activities for the improvement of health education

Standing Advisory Commission to Combat Diabetes; Standing Technical Advisory Group on Comprehensive Health Care for Teenagers; National Commission to Combat Tobacco Addiction; Coordinating Committee for the Participation of NGOs and Health Promotion Bodies; Working group composed of members of the Ministry of Culture and Education and of the Secretariat for the Prevention of Drug Addiction and the Control of Drug Trafficking; National Commission for the Promotion of Breastfeeding; National Commission for Action to Improve Nutrition; National Responsible Parenthood Commission; National Commission for the Prevention and Control of Cholera; National Traffic and Road Safety Commission; and Working Group on Violence.

Evaluation of training and community outreach projects by public welfare bodies.

National centre for grass-roots organizations of the Secretariat for Social Development. Information and Incentives Day at the National Library and establishment of a permanent coordinated structure for relations with health NGOs.

Evaluation of the health education department of the National Institute for Nutritional Research, Salta province, July 1995.

Evaluation of the Lomas de Zamora Hospital and mother and child clinic, Buenos Aires province, in collaboration with the Office for Maternal and Child Health.

Special events: Books Fair (1995) - evaluation of reference works and distribution of educational materials; International Congress for the Prevention and Treatment of Drug Dependency - prevention programme in schools (1995); seminar on teenage health management organized by the Office for Maternal and Child Health and the Mother and Child Programme of Buenos Aires province (1995); World Health Day, Target 2000: A World Without Polio - various activities.

National priorities for technical cooperation with PAHO

1. Health in the framework of development

95. This programme focuses on strengthening the health measures affecting development at the level of governmental economic and social policies, including the reform of the State, as well as the measures for improvement of the monitoring and evaluation of the people's health. It seeks to strengthen proposals concerning scientific and technological development, health, women and development, workers' health, and social participation. It includes management support for national health development by means of closer links with PAHO/WHO representatives in Argentina and technical cooperation among countries through the regional integration project of their technical cooperation services.

2. Development of health services

96. This programme aims at strengthening coordination among the various health agencies in order to achieve provincial and municipal decentralization and integration at the local level. At the central and provincial levels the aim is to strengthen policies, plans and standards and State regulation and control. The aim at the municipal level is to organize and operate pluralistic and complementary health service networks for greater efficiency in the provision of individual and collective health care services. Efforts focus on strengthening the role of public hospitals in such networks through self-management and improving the performance of public and private health providers under a guarantee of health-care quality.

3. Human resources development in the health sector

97. This programme aims at developing human resources of critical importance to the sector by radical reorganization of existing undergraduate and postgraduate courses and improving personnel management in the national and provincial health services.

4. Health promotion and protection

98. This is considered to be a priority programme by the Government; it focuses on the development of projects at both individual and collective levels aimed at modifying risk factors and lifestyles associated with the most prevalent non-communicable chronic diseases. It includes strategies for helping to promote a culture of health at the grass-roots level, such as the "healthy communities" strategy. Particular emphasis is placed on health-promotion activities relating to mothers, teenagers, dissemination of scientific and technical information, and the media.

5. Health and the environment

99. This is considered to be a priority programme by the Government; it aims at reducing environmental health risks for the population and achieving compliance with the international agreements and conventions resulting from the United Nations Conference on Environment and Development (UNCED-92).

100. Special emphasis is to be placed on the Argentine component of the Plan for Regional Investment in Environment and Health.

6. Control and prevention of communicable diseases

101. This programme supplements the national efforts to reduce the morbidity and mortality rates for preventable communicable diseases that are a public health problem in Argentina, such as: Chagas's disease, dengue, tuberculosis and other immuno-preventable diseases, etc. AIDS is of special importance. It involves participation in a series of comprehensive measures to strengthen the national and provincial programmes, support research activities, media outreach, diagnosis, and treatment. Special emphasis is to be placed on cross-cutting programme activities in localities regarded as priorities.

102. The information given under article 24 covers the specific health plans which are being carried out.

103. It is also important to note that Argentina's national legislation contains procedures and specific measures to combat domestic violence and that Argentina has ratified the Worst Forms of Child Labour Convention.

104. Attention should also be drawn to the fruitful work carried out in Argentina by UNICEF since it set up here in 1985. The national and provincial governments and NGOs have benefited from its technical cooperation plans. The programme for Argentina - the master plan for operations in the country - and its creative measures for social outreach and mobilization were honoured by a "Staff Award", Argentina being the first Latin American country to receive such recognition.

105. In collaboration with UNICEF, the Argentine Government has managed to achieve the goals established for the mid-1990s at the World Summit for Children. These include: an increase in vaccination levels to 80% or higher throughout the country; the elimination of polio; ensuring that at least 80% of children aged under two years receive adequate levels of vitamin A; a reduction in levels of severe and moderate malnutrition; and increased coverage in primary schools.

Province of Santa Fe

106. Activities were started up under a nutritional recovery programme in May 1997. They are carried out jointly by the Ministry of Health and the Environment and the Secretariat for Community Development with the aim of restoring the health and upgrading the diet of children with low birth weight.

107. The two ministries established an implementation unit made up of members of their own professional staff (paediatricians, nurses, health workers and social workers).

108. The following measures are taken in connection with children identified by a health centre as having low birth weight:

- The lists of undernourished children are compared with the lists of the food and nutritional services available in the local community, in order to determine how many of them are providing help, the cause of the malnutrition, and whether any food supplements are needed.

- A socio-economic check is made in order to determine the composition of the family group, who is the breadwinner, and, if the family is not in touch with a nutritional service, to make such a service available and request it to carry out the relevant medical tests.

- The children's mothers are interviewed by the institution which their children usually attend; if they are not attending an institution, they are summoned to attend the institution closest to their home. The purpose is to deliver to the mothers a basket of foods and give them comprehensive counselling on the problem. The principal argument is that improved results will require the children's regular attendance at a food-distribution canteen and compliance with the schedule of medical checks.

109. The responsibility of furnishing daily food to large groups of the population entails not only supplying the food but also facilitating its improved use by means of nutritional and health education. There is also a system for the permanent monitoring of the children, in the form, for example, of the daily medical-certification checks carried out by the community institutions.

110. In May 1997 there were 170 children listed as having low birth weight; 77 of them came from families whose children attended food-distribution canteens.

111. In June a further 50 children who were not attending a food-distribution canteen were added to the list, and the programme assisted 120 children.

112. Thirteen more children were added in July, but 10 children were discharged from the programme. Assistance was furnished to 120 children.

113. In August the number of children in the programme stood at 223, and assistance was furnished to 190 children.

114. In September the total number of children stood at 268, and 200 were given help. By the end of 1997, 45% of the children had been discharged, but the nutritional assistance was continued for a little longer in some cases, depending on the assessment made by the programme's implementation unit.

Article 7. Identity, name and nationality

Registration of newborn babies

115. The persons who have a legal duty to request the registration of a birth are indicated in article 30 of Decree No. 8204/63 on the Civil Registry, namely:

(i) The father or mother or, in their absence, the closest relative;

(ii) The administrators of hospitals, prisons, orphanages, etc., in respect of births occurring in such institutions which are not registered by one of the persons indicated in paragraph (i) above;

(iii) Any person finding a newborn baby or in whose home a newborn baby is found;

(iv) The authority responsible for maintaining the register of events occurring on board ships at sea.

116. Application for local registration, article 28 of Decree No. 8204/63 notwithstanding, must be made within 40 days; a court order is required in all cases of the registration of a child aged over six years.

117. Act No. 24.755 was adopted on 30 December 1996 with a view to ending the problem of unregistered and undocumented children. The aim was to simplify the registration procedure. Parents

were granted exemption from the fines which they might otherwise have incurred for breaches of Act No. 17.671 under an amnesty running until 30 December 1997.

Procedures for the identification of newborn babies: Act No. 24.540

118. The Congress passed Act No. 24.540 on 9 August 1995. This Act laid down the criteria and procedures for establishing the identity of newborn babies.

119. The Act's regulations are now being drafted. For this purpose, the Interior Ministry's Under-Secretariat for Human and Social Rights set up an advisory committee consisting of representatives of the National Commission on the Right to an Identity, the Health Ministry's Office for Maternal and Child Health, the National Institute of Medical Genetics, the Argentine Paediatric Society, the Health Committee of the Chamber of Deputies, the Ministry of Justice, the Legislature of Buenos Aires City, the Federal Police, and the National Population Register.

120. The committee produced a bill intended primarily to fill a big gap in the formal mechanisms and instruments pertaining to personal identity, and at the same time to provide an essential legal instrument establishing the inviolability of the mother-child relationship and ensuring the security and effectiveness of the identification procedures by means of a genetic fingerprint register.

121. The bill establishes the procedure for identification of children and the implications for registration and family affiliation, in order to guarantee all children recognition of their identity and ensure their comprehensive development on that basis, and to enable them to exercise their right to a nationality.

122. The "genetic fingerprint" consists of blood samples from mother and child, which are stored in a single identification card. This card will have two original copies: one will be kept in the Civil Registry and the other in the National Genetic Data Bank. In practical terms, the genetic fingerprint consists of a drop of the mother's blood and a drop from the child's umbilical cord stored on blotting paper.

Right to a nationality

123. Pursuant to Act No. 346 the following persons are Argentinians:

(a) All persons born within the territory of the Republic, whatever their parents' nationality, except for children of ministers of foreign countries and other members of the diplomatic community resident in Argentina;

(b) Children of native Argentinians who, although born in another country, choose to take the citizenship of their parents;

(c) Persons born in missions or on warships of Argentina;

(d) Persons born in neutral waters under the Argentine flag.

124. The acquisition of nationality is not affected by the child's sex or birth status (born within or out of wedlock). It is thus clear that the national legislation in force accords males and females equal treatment in terms of the right to a nationality.

125. The enabling regulations for this Act stipulate that the children of an Argentine-born father or mother obtain citizenship by right simply by establishing the facts of their birth. In the case of children under 18 years of age having an Argentine-born father or mother who was not recognized as a national

by the State where the birth occurred or who was stateless for some other reason, Argentine nationality may claimed on their behalf by the person exercising parental authority, provided that such person proves that the child satisfies the necessary conditions.

126. Attention is drawn to the following examples of progress in connection with the exercise of the right to a nationality:

(i) The current legal system does not provide for the loss or withdrawal of Argentine nationality. Act No. 23.059 reinstates Act No. 346 (as amended by Acts Nos. 16.801 and 20.835) and rescinds all other amendments, including the ones contained in Act No. 21.795 concerning loss and withdrawal of nationality;

(ii) Article 3 of the Act "declares invalid and without legal effect the loss or cancellation of Argentine nationality ... ordered under articles ... of de facto Act No. 21.795 and those effected when de facto Act No. 27.610 was in force", while article 4 states that "the persons affected by those measures shall have their Argentine nationality restored automatically upon the entry into force of the present Act".

(iii) Act No. 24.533 amends articles 10 and 11 of Act No. 346. The amendments are of a technical nature and are designed to streamline the procedure for obtaining the citizenship card.

Right to a name

127. Article 1 of Act No. 18.248 establishes that every natural person has the right and the duty to use his or her given name and family name in accordance with the provisions of the Act.

128. Given name: this is acquired by entry in the birth certificate. It is chosen by the parents or, if one of the parents is absent or prevented from attending, by the other parent or the persons so authorized by the parents. Failing that, it may be chosen by the guardians, the Government Procurator for Minors or the officials of the Registry of Civil Status and Capacity (art. 2).

129. Indigenous names: the Act guarantees the right to use indigenous names or derivatives of indigenous names of peoples of Argentina and other Latin American countries (art. 3 bis).

130. The national courts have ruled in this connection that:

> "The rights of the child accorded by Act No. 18.248 and by the Convention on the Rights of the Child (art. 8 et seq.), which has constitutional rank, must be taken into consideration in respect of permission to register a name, and the biological relationship shall take precedence in this matter". (CNCiv., Chamber G, 14 March 1995. Caiña, Carlos A. v. Civil Registry.)

Autonomous City of Buenos Aires

131. The Constitution of the Autonomous City of Buenos Aires reads in part:

"Article 12. The City guarantees:

1. The right to a personal identity. The City shall establish a child's identity immediately after its birth, using the most efficient and secure scientific and administrative methods. In no case shall the failure of the mother to produce personal documents obstruct the granting of an identity to a newborn baby. The tracing and identification of any persons whose

identity has been deleted or altered must be facilitated. The City shall operate official agencies to carry out genetic tests to determine the filiation.

Province of Chaco

132. One of the concerns shared by all the subprogrammes for children is the right to an identity and the problem of undocumented children. Various measures are being taken to tackle the problem:

(a) The "Candelaria" (Candlemass) subprogramme encourages parents to register their children's births in the Civil Register and it provides advice on this procedure. The situation of children whose biological parents are not present is being studied in working groups, and individual interviews are conducted in order to identify the needs of every child in respect of establishing his origins;

(b) The "Porvenir" (Future) subprogramme makes reference to the filiation procedure (registration in the Civil Register for issue of the national identity document);

(c) At present, as a result of coordination between the Documentation Centre and the Civil Registry, undocumented children of any age from anywhere in the province are being registered at the Civil Registry office closest to their home. This procedure is uncomplicated and not subject to payment of fees;

(d) Lack of documents has been identified as an obstacle to children's enrolment in school. The "Volver a Casa" (Return Home) subprogramme has been carrying out measures to solve this problem by dealing with individual cases. The situation of the children involved in this programme is being regularized, and the aim was to deal with all the children in the course of 1998.

Province of Chubut

133. The Act on the comprehensive protection of children, adolescents and the family guarantees the right to an identity, including a nationality, a name, recognition of one's biological family, culture, language of origin and family relations, in accordance with the law.

134. If a child lacks any or all of these elements, the State furnishes appropriate assistance and protection in order to make good the lack, as well as ensuring that:

- The public and private institutions providing pregnancy and childbirth services and care for newborn babies establish the identify of both mother and child and safeguard the mother-child relationship throughout their stay in the institution;
- The public and private institutions register and store all documents and other information relating to the identity and background of all the persons receiving care, even when their legal status or position changes. In the event of divorce, the records must be stored by appropriate methods at the headquarters of the administrative agency applying the law.

135. The provincial government is responsible for ensuring the immediate registration of children immediately after birth.

Article 8. Preservation of identity, nationality, name and family relations

136. The current national legislation on adoptions states:

> "Article 238. Adopted children have the right to know their biological origins and to have access to their adoption orders on reaching the age of 18 years".

National Commission on the Right to an Identity

137. This Commission was established by Order No. 1.328/92 in order to lead the search for missing children and establish the whereabouts of abducted and disappeared children whose identity is known and of children born to women unlawfully deprived of their liberty. In this way the State is trying to fulfil its commitments in respect of the right to an identity assumed by ratifying the Convention (arts. 7 and 8). It is also responsible for tracing children whose disappearance was due to the dictatorship and children victims of abduction or trafficking.

138. The Commission was established as a result of a request by the Plaza de Mayo Grandmothers' Association and at the behest of the Office of the President of the Republic; it is composed of representatives of the Government Procurator's Office, the Grandmothers' Association, and the Interior Ministry's Under-Secretariat for Human and Social Rights, where it has its offices. It works with the National Genetic Data Bank to gather DNA samples from family members and from children whose identity has been changed. It is currently investigating the 284 complaints in its files, seeking information from Civil Registry offices, the Electoral Chamber, health centres, etc.

139. It also runs a permanent advice service for persons aged over 18 who have doubts about their true identity and assists them with the procedures for clarifying their situation. Attention may be drawn here to the need for an agency to deal with this specific problem by prompting direct or indirect action, depending on the case, by the National Commission.

140. In connection with the new reports of disappeared pregnant women who had been traced, the National Commission made several trips to the interior of the country in order to interview family members and advise them about matters relating to genetics: 11 trips were made to the provinces of Santa Fe, Córdoba, Tucumán and Buenos Aires and to the Oriental Republic of Uruguay; 92 interviews were conducted with 24 families.

141. The National Commission was also requested by the Office of the Procurator-General for Human Rights of El Salvador to give advice to the Association for Tracing Disappeared Children. Advice on investigations and legal and genetic matters was provided in November 1995. Advice was also furnished to the Criminal Prosecution Office and to the Children's Ombudsman. In addition, at the invitation of the Procurator of the Supreme Court of Tucumán the National Commission attended the sessions on the right to an identity held for members of the Judiciary and the Procurator's Office, Police Headquarters personnel and University staff. In Mendoza province the National Commission held three interviews to verify information connected with a report.

Number of files by type		
Concerning minors	Concerning adults	Concerning new reports of disappeared pregnant women
229	80	45
Total files 354		

Persons referred to the National Genetic Data Bank for filiation studies. Total: 152	
Minors: 33	Possible family members: 119

Files by topic				
Possible disappeared minors	Trafficking or abduction of minors	Filiations	Closed files	Referred files
100	37	43	16	1

Documentation requests. Total: 954				
National Register	Provincial Registers	Electoral Court	General Archive	Others
144	351	101	211	147

Approximate number of requests for investigation received from abroad: 5,000

142. The Judiciary has undertaken a number of investigations of the abduction of children born in captivity in the period 1976-1983. This is because the so-called "Due Obedience" and "Terminal Point" Acts (Nos. 23.521 and 23.492) - revoked by the National Congress by Act No. 24.952 of 25 March 1998 - expressly excluded from their scope the crime of abduction of minors.

Current prosecutions of the crime of abduction of minors

143. There are currently nine cases being prosecuted for the crime of abduction of minors during the de facto Government (1976-1983). The purpose of these actions is to identify the politicians responsible for these crimes, i.e. the persons who gave the orders and established the structure of concealment for the theft of babies.

144. These prosecutions are taking place now because at the time of the 1985 trial of the military juntas only six cases of abduction were investigated out of some 200 which had occurred. As for the military officers who were not tried at that time, the two Acts referred to above did not address the abduction of children or the alteration of their identities.

145. The following persons have been convicted to date:

Jorge Videla: Prime Minister of the de facto regime. He was arrested on 9 June 1998. He is currently serving a term of house arrest, as prescribed by domestic law for persons of his advanced age. He was linked to 10 cases of abduction of minors.

Emilio Massera: Commander-in-Chief of the Navy under the de facto Government. Arrested on 24 November 1998. The court hearing the case convicted him of complicity in all the thefts of children which occurred in the Navy's Marine Engineering School (ESMA).

Rubén Franco: last chief of the Navy under the dictatorship. Arrested on 28 December 1998.

Jorge "Tigre" Acosta: ESMA Chief of Intelligence. He was arrested on 29 December 1998 after being a fugitive from justice for two weeks.

Antonio Vañek: Chief of Naval Operations and President of the Legislature Advisory Commission which replaced the National Congress. He was arrested on 7 December 1998.

Héctor Febres: a Prefect active in ESMA. Following secret births, he handed babies over to substitute families. Arrested in mid-December 1998.

José Suppicich: Rear Admiral, former chief of ESMA. Arrested on 9 December 1998.

Cristino Nicolaides: last Commander-in-Chief of the Army under the dictatorship. Arrested on 12 January 1999.

Reynaldo B. Bignone: last de facto President. Arrested on 20 January 1999.

146. In connection with these events, on 9 December 1998 the National Congress adopted an Act awarding a monthly grant of 25,000 pesos to the Plaza de Mayo Grandmothers' Association as a contribution to the cost of tracing, identifying and returning abducted children and children born in captivity. This grant was to come into effect in January 1999 for two consecutive years.

147. The following specific purposes were established for these funds:

(a) To help to trace disappeared children;

(b) To supplement the information on all the families held in the National Genetic Data Bank;

(c) To supplement the information held in the genetic data bank of the Plaza de Mayo Grandmothers' Association;

(d) To complete the current investigations, so that the cases may be brought to court;

(e) To re-establish the true identities of disappeared children (now young people);

(f) To continue the psychological support for returned young people and their families;

(g) To create conditions to prevent any repetition of similar situations in the future.

148. The national courts have ruled in respect of the preservation of children's identity:

> "If there is a family to be recovered and if there are verified biological links, it is a child's subjective right that everything possible should be done to enable the child to live with his family; such action protects the child's identity and the family relationship, for this is a question of the personal rights of the child and his name is not affected… (CNCiv., Chamber G, 6 February 1992).

Mediation Office for Family Reunification

149. Following the adoption of the reparations legislation, a number of problems and needs were identified in dealing with the public which went beyond the specific scope of the benefits established in the legislation. This was the reason for the creation of the Mediation Office for Family Reunification. The Interior Ministry's Under-Secretariat for Human and Social Rights was given the task of

investigating and facilitating the restoration of links which had been affected or impaired by events during the period of State terrorism.

150. Interviews were held for this purpose, sometimes many in number depending on the complexity of the case; the place of the interviews would be determined in consultation with the family: usually in the Under-Secretariat's offices or, if more convenient, in the family home.

151. The following kinds of situation have been dealt with:

- Children who were unaware of the existence of siblings, for in many cases their parents tried for security reasons to avoid contact with other members of their families;
- Children who had lost contact in childhood with siblings whose given names they did not know, being very small at the time of the separation;
- Children of the same father who did not know each other, and wives who were unaware that the father had those children;
- Grandparents who had lost contact with grandchildren or sons- or daughters-in-law;
- Friends of disappeared persons who wanted to make contact with such persons' children.

152. The Office also helps families by means of mediation as such to resolve conflicts that arise in connection with access to the benefits accorded under the reparations legislation and their distribution among the victim's heirs.

153. In another area, connected with the travel documents of children, the Argentine Federal Police, the agency responsible for issuing passports, decided, pending the adoption of a new documentation system, to avoid the option offered by article 7 of Decree No. 2015/66 to include children aged under five in their parents' passports. This decision was based on the position advocated by the International Civil Aviation Organization that all travellers, including children in that age group, should have their own passports. This arrangement makes it impossible to include children fraudulently in the travel documents of adults and obstructs trafficking in children and crimes which impair the free exercise of parental authority.

Article 9. Guarantee of relations with parents

154. Act No. 24.270 of 3 November 1993 incorporated in the Criminal Code the crime of "obstruction of contacts between minor children and their parents with whom they do not live". The Act addresses the various forms of this offence, including:

(i) Preventing or obstructing contact (art. 1);

(ii) Changing place of residence without judicial authorization in order to obstruct contact (art. 2);

(iii) Moving to an overseas place of residence in order to obstruct contact (art. 2).

155. If one of the cases addressed by the Act arises, the court must decide within a time limit of *10 days on the measures necessary for re-establishing* contact between the child and his parents (art. 3.1) and fix a provisional schedule of visits (art. 3.2).

156. The full text of the Act is annexed to this report.

157. Article 307 of the Civil Code sets out the grounds on which parents may be deprived of parental authority:

(i) If they are convicted as principals, co-principals, instigators or accomplices in a culpable offence against the person or property of any of their children, or as co-principals, instigators or accomplices in an offence committed by any of their children;

(ii) If they desert any of their children, in respect of the child so deserted, even if the child remains in the custody of, or is recognized by, the other parent or a third party;

(iii) If they endanger their child's safety or mental or physical health by ill-treatment, bad example, flagrant misconduct or delinquency.

158. The Code provides for suspension of parental authority for as long as a parent whose absence has been legally declared remains missing, and for prohibition or disqualification in certain cases. It also provides for suspension when parents hand their children over to establishments for the protection of minors.

159. While parental authority is suspended for one parent, the other continues to exercise it; in the absence of the other parent, when the child cannot be placed in the care of a suitable blood relation (the closest relatives being considered first) he becomes a ward of the national or provincial State.

160. Provided that parents exercise their powers in the normal manner, the State cannot and should not interfere in the relations between parents and children. But society must intervene to protect children who are deserted by their parents or placed in material or moral danger by their conduct. In these cases wardship is exercised by the court with the assistance of the Government Procurator's Office. The court is the supreme authority, and the law accords it broad powers; it is ultimately the magistrate who determines a solution in the child's best interests.

161. Custody of children aged under five whose parents are separated or divorced is usually awarded to the mother in the absence of serious considerations affecting the child's interests. In reaching its decision the court must take into account the best interests of the child in accordance with the national legislation in force, including the Convention, which has constitutional rank.

162. Article 376 bis establishes the obligation of guardians to allow parents direct contact with their children:

> "The parents, guardians or tutors of minors of persons lacking legal capacity or persons of the age of majority who are sick or disabled must permit them to be visited by relatives who are responsible for maintenance pursuant to the provisions of the present chapter. If such visits are opposed on the ground of possible harm to the moral or physical health of the persons to be visited, the court shall make the necessary ruling by summary procedure, establishing where necessary the most suitable schedule of visits in the light of the circumstances of the case".

163. Articles 377 to 467 of the Code set out the rules on tutorship:

> "377. Tutorship is a right conferred by law to administer the person and property of minors who are not subject to parental authority and to represent them in all civil acts.

> 378. The relatives of a minor orphan have a duty to inform the courts of the child's orphan status and absence of tutorship; if they do not do so, they may be denied the right of tutorship accorded to them by law.
>
> 379. Tutorship is a personal duty which does not pass to heirs and which no one may refuse to perform without due cause.
>
> 380. A child's tutor is his legitimate representative in all civil transactions.
>
> 381. Tutorship is exercised under the supervision and control of the Procurator for Minors.
>
> 382. Tutorship is granted by the parents, the law or the courts.
>
> 399. No one may exercise the functions of tutor, accorded either by the parents or the courts, unless that status is granted by the competent court, which appoints or confirms the appointment of the tutor to exercise the functions in question.
>
> 457. The courts may revoke a tutorship if the tutor becomes incapable of exercising it, if he fails to make an inventory of the minor's property within the time limit and in the form prescribed by law, or if he fails to pay due attention to the minor's health, safety and morals, or to his vocational training or property".

164. With regard to the procedural rules for the appointment of tutors, article 776 of the Code of Civil and Commercial Procedure states:

> "The appointment of a tutor or curator and the confirmation of such an appointment made by the parents shall be effected at the request of the person concerned or the Government Procurator without formal proceedings, unless some person claims the right to be so appointed. In this event, the question shall be resolved by summary procedure".

Article 777 continues:

> "When an appointment has been made or confirmed, the court shall make the award in a document recording the oath or promise faithfully and lawfully to exercise the tutorship and the judicial authorization of such exercise".

Province of Santa Fe

165. Every child has the right to comprehensive development in his family. If his natural family does not offer a suitable context for his biological, psychological and physical development, for whatever reasons affecting the family's stability or solidarity, and the child is in a situation of moral or material risk, the provincial State must take action with respect to the child's guardianship by means of "institutional and non-institutional" arrangements.

166. The traditional arrangements for placement in an institution result in the housing of an increasing number of children who cannot be provided with the individual attention available only in a family context; accordingly, placement must be used only when there is no other alternative.

167. The interdisciplinary approach to the situation of children with socio-economic problems gives rise, in the light of the need to avoid having large numbers of children housed in institutions, to the consequent need for and usefulness of recourse to non-institutional methods by implementing

programmes involving family or family-style arrangements and foster parents who are able to preserve the child's individuality as a human being and prepare him to take his place in the community.

168. The aim of such programmes is to keep legal procedures and recourse to placement to a minimum and to provide practical and economic support in the form of grants to the natural family. It was for these reasons that the former Office for Children and the Family introduced the following programmes:

Foster families

169. This arrangement offers a very favourable solution for vulnerable or abandoned children who lack any other means of protection.

170. The aim is to provide children whose health or moral safety is at risk, either because of their home environment or activities or because their education is being compromised by the behaviour of the persons having care of them, with a family home which attends with affection and comprehensive care to their development as "human beings and useful members of society".

171. This approach is intended to avoid the institutionalization of children who do not have serious behavioural problems by placing them with supportive families which offer them an appropriate context for normal biological, psychological, physical and spiritual growth and encourage their activities outside the family and normal relations within it.

172. The families are selected in accordance with the requirements governing their composition and in the order of their application for selection and their registration; it is a particular condition that they should have sufficient vocation to make this commitment, for otherwise they would merely be entering into a labour contract.

173. There are no minimum or maximum age limits for placement in a foster family. The child's age is taken into account only for the purposes of selecting a family which in the view of the professional staff will be able to establish a harmonious relationship with him; however, the regulations apply in general terms to the 0-21 age range.

174. The foster allowance is 76.50 pesos a month per child; the payments are made every two months in arrears.

Paid court-appointed guardians

175. This programme offers valuable help to families which wish to take responsibility for children (under a juvenile court order) by becoming their legal guardians and which, following checks or evaluations by the court, are deemed to warrant financial support to enable them to discharge their guardianship duties.

176. With a view to facilitating the appointment of paid guardians for children at risk or lacking protection and as an alternative to placement in an institution, at the request of the competent judicial authority the province's Office for Children, Women and the Family may make regular monthly payments and special payments.

177. The families are selected in the light of case studies following an initial move by the juvenile court; the Office submits its documents to the court and proceeds in accordance with the legal requirements.

178. The programme covers minors up to the age of 21.

"Little family" programme

179. This programme offers a means of family placement, preferably with a married couple, who must provide temporary protection, assistance and care for a group of children lacking a normal family context in order to enable them to enjoy family life until they return to their natural families or the court makes provision for their legal guardianship or adoption.

180. The programme regards the family as the basic unit of society, and the "little family" headed by a suitable couple who have been duly selected and counselled offers a new option for placement.

181. The aim is to avoid the placement of children in institutions sheltering large numbers of inmates and a succession of moves to different institutions with the adverse consequences of having constantly to re-adapt to different persons.

182. The programme also seeks to develop a child's personality in all its aspects by providing adequate leisure activities and by satisfying all his essential needs: food, shelter, clothing, medical care, and primary or secondary education as appropriate.

183. It also offers children an opportunity to live in a family which fosters their harmonious physical, mental, moral and emotional development and it ensures that they take their places, for a time at least, in the community in which they live and conduct their relations and activities.

184. In the selection of families the technical/administrative unit must assess - in the preferred situation of a married couple - whether the couple has the capacity to take on the role of parents and are emotionally mature, and whether they suffer from any psychopathological condition or other problem which may disturb the family relationship.

185. The programme covers the 2-10 age range, and the children involved should preferably be siblings.

186. The couple receives monthly remuneration of 96 pesos for each child, plus an allowance of 87 pesos a month for the children's maintenance.

187. If the little family lives in the home of the "parents", they receive an additional 37 pesos a month.

Substitute mothers

188. This system provides comprehensive care for short periods with a woman who takes children aged up to five years into her home until a final decision is taken on their future.

189. The stays are intended to be as short as possible, but the children are given affection and dedicated and comprehensive care.

190. The programme provides a temporary substitute for the mother figure at a vital stage of a child's life, at which a mother plays an essential role in his emotional and affective development.

191. The relationship between the Office and the substitute mother is governed by an agreement setting out rights and duties of the parties.

192. Applications to become substitute mothers are invited by means of advertisements or ad hoc competitions. The women must supply details of their identity and background and other documents, and members of the interdisciplinary teams visit their homes for the purposes of a case study.

193. The selection of substitute mothers depends on the degree to which they satisfy the conditions for fulfilling this role, as established in the case study. They receive a daily allowance of 4.80 pesos for each child.

Grandmothers and children

Pre-admission grants

Training grants

Article 10. Family reunification

194. See the information given in relation to articles 8 and 9 of the Convention.

195. Argentina has dealt with concrete cases in which, at the request of one parent living in Argentina as a refugee, refugee status has been granted to his or her minor children and spouse, with the principal and sole objective of family reunification.

196. Children who for various reasons are living in a country which is not the country of residence of either of their parents enjoy the same rights as children living with their parents. For further information on such cases, see the section of the report dealing with article 18 of the Convention, in respect of joint parental authority.

Article 11. Illicit transfer and non-return of children abroad

197. As the starting point, a distinction must be made between "abduction" of children, usually by one of their parents, and "trafficking" in children.

198. The first case may be divided into local and international abduction:

(a) Local abduction usually occurs when one of the parents moves to another town without the prior consent of the other parent, who also has parental authority, or without due judicial authorization. Allegations of this type of abduction may be submitted to the competent local judicial authorities;

(b) The international abduction of children usually occurs when one of the parents illicitly transfers or keeps a child abroad in violation of the other parent's custody rights or of a court order prohibiting such transfer. This type of abduction is dealt with by application to the judicial authorities having jurisdiction at the child's usual place of residence, which petition the courts of the place to which the child has been transferred or at which he is being kept, seeking their collaboration to secure the child's return. There are also three international instruments on this problem:

(i) The Hague Convention on the Civil Aspects of International Child Abduction of 1980, ratified by Act No. 23.857 and in force in Argentina since 1 June 1991. The General Directorate performs the functions of central authority for the application of this Convention;

(ii) The Agreement on the International Protection of Minors concluded with the Oriental Republic of Uruguay on 31 July 1981 and ratified by Act No. 22.546;

(iii) The Inter-American Convention on the International Return of Children of 15 July 1989. Argentina has not yet ratified this instrument, but it is being studied with a view to ratification.

199. In accordance with the reservation made at the time of depositing the instrument of ratification of the Convention on the Rights of the Child, paragraphs (b), (c), (d) and (e) of article 21 do not apply within the jurisdiction of the Republic of Argentina because, in its view, before they can be applied a strict mechanism must exist for the legal protection of children in matters of intercountry adoption, in order to prevent trafficking in and sale of children.

200. Subsequent to the entry of this reservation Argentina adopted Act No. 24.779 of 28 February 1997, which amends the adoption provisions of the Civil Code. This Act is based on full respect for the best interests of the child and addresses the effects in Argentina of adoptions granted abroad (ch. V, arts. 339-340), but it is silent on the points which are the subject of the reservation, especially with regard to situations in which children of Argentine origin are given in adoption to foreigners.

201. One of the activities organized by the MERCOSUR working group on social integration was the convening in Rio de Janeiro in May 1998 of a first workshop on "Childhood and adolescence", which was attended by specialists in public policy for children and adolescents from governmental and non-governmental organizations from Argentina, Bolivia, Brazil, Chile, Paraguay and Uruguay. The workshop discussed the usefulness of the regional integration of the countries members of MERCOSUR and the need to provide for the most vulnerable population groups with a view to securing universal access to social benefits and services.

202. The meeting also stressed the importance of compliance with the principles of the Convention on the Rights of the Child.

203. As the output of this workshop the working group formulated a series of recommendations based on international cooperation. These recommendations relate to:

- Tackling poverty and inequality;
- Policies for guarantee of the rights of the child
- Management of policies for guarantee of the rights of the child.

204. Argentina's Legislature is in the process of approving the Inter-American Convention on International Traffic in Minors adopted by the fifth Inter-American Specialized Conference on International Private Law; article one of this Convention states:

> "With a view to the protection of the fundamental rights and the best interests of minors, the purpose of this Convention is to prevent and punish the international traffic in minors and to regulate the civil and criminal aspects thereof".

Article 12. Right to be heard

205. Argentina's civil legislation establishes a schedule of legal disabilities for the sole purpose of providing greater protection for children. As may be seen from the provisions cited below, the Civil

Code establishes a tiered system of legal disabilities tailored to children's gradual development as they grow older and maturer:

> "Article 54. The following persons are legally incompetent in all respects: ... (2) Children below the age of puberty".
>
> "Article 55. Adult minors have legal capacity only in respect of the acts which the law authorizes them to perform".
>
> "Article 56. However, legally disabled persons may acquire rights and contract obligations through the legal representatives stipulated by law".
>
> "Article 57. The following persons may act as representatives of the legally incompetent: ... (2) The parents or guardians of unemancipated minors".
>
> "Article 58. This Code protects the legally incompetent, but only for the purpose of removing the impediments of their incapacity by furnishing them with the representation stipulated in the Code and without according them the benefit of restitution or any other benefit or privilege".
>
> "Article 59. In addition to any other necessary representatives, it is mandatory for the legally incompetent to be represented by the Office of the Procurator for Minors, which shall play a legitimate and essential part in any judicial or extra-judicial proceedings in any contentious or non-contentious jurisdiction in which a legally incompetent person is the plaintiff or respondent or which relates to the person or property of a legally incompetent person, subject to the nullification of any act or any judgement effected without the Office's participation".
>
> "Article 128. A minor's legal incapacity ceases when he achieves his majority at the age of 21 or if he becomes emancipated before that age.
>
> From the age of 18 a minor may conclude labour contracts in respect of honest work without the consent or authorization of his representative, subject to compliance with the labour laws. A minor who has obtained a qualification to exercise a profession or occupation may exercise it on his own account without the need for prior authorization.
>
> In the two cases referred to above a minor may freely administer and dispose of the property acquired with the proceeds of his labour and may initiate civil or criminal proceedings in connection with such property".
>
> "Article 131. A minor obtains emancipation on marriage and acquires civil capacity subject to the restrictions mentioned in article 134.
>
> A minor who marries without permission is subject until age 21 to his parents' administration and disposition of any property which he has obtained or may obtain free of charge, and the legal regime applicable to minors continues in respect of such property, subject to any subsequent empowerment.
>
> On reaching the age of 18 a minor may be declared emancipated by age with his consent and by the decision of the persons having parental authority over him. If such minor is subject to tutorship or guardianship he may be declared emancipated at his own request or at the request of his tutor or guardian, subject to a prior report on his aptitude for emancipation. Emancipation by

the parents is granted in the form of a public instrument which must be entered in the Register of Civil Status and Capacity.

In the case of emancipation by a court it is sufficient for the decision to be entered in the Register.

Emancipation may be revoked by a court at the request of the parents, of the persons exercising tutorship or guardianship at the time of the emancipation, or of the Guardianship Office if the minor's conduct demonstrates his inaptitude.

The Government Procurator for Minors

"Article 493. The Government Procurator for Minors must be involved in any proceedings or litigation concerning tutorship or curatorship or the performance of the duties of tutors or curators. He must also be involved in the establishment of the inventories of the property of minors or legally incompetent persons, as well as in any sales or contracts which have to be made. He may take over the functions of tutors or curators who are not performing them. He may request the dismissal of tutors or curators for poor administration and execute any acts of guardianship entrusted to tutors and curators by law, and he may supervise the administration by tutors and curators of the persons and property of minors and legally incompetent persons".

"Article 494. All legal documents or contracts concerning the persons or property of minors or legally incompetent persons shall be void unless the Government Procurator for Minors was involved in their conclusion".

206. In this connection the National Civil Court, Chamber F, declared in a decision dated 20 June 1997:

"The representation of minors before the courts is complicated, consisting as it does both of his necessary representative and of the governmental official providing him with mandatory assistance. These two representatives provide an adequate defence of the minor's interests under a system of representation which addresses the particular circumstances of minors who may not bring applications on their own behalf".

207. For details of the legal regime of tutorship, see the discussion in relation to article 9 of the Convention.

Province of Chaco

208. The process of transforming the children's centres (nurseries) into "Casas de Sol" (child development centres) involved a review of the mechanisms of communication among adults, among children, and between children and adults.

209. The process of change included experiments, such as how to promote a dialogue between adults and children and create spaces for listening, and suggestions boxes were introduced to enable children to express their opinions about the institution and its operation and about what they liked and disliked. One of the casas (No. 1 - "Resistencia") carried out a project called "Child advocates", under which the teaching staff worked with the children to inform them about two rights and how to exercise them: the right to a name and the right to express one's opinions.

210. In the "Candelaria" programme the children and their families practised the right to be heard at workshops for discussion and analysis of every one of the rights. Children also play an active part in the campaigns to publicize the rights of the child which involve advocacy by children. In addition, they are consulted formally and informally about the tasks to be carried out.

211. Children affected by situations of ill-treatment or behavioural problems are given an opportunity to say what they think and explain their situation in individual interviews designed to ensure that their needs are attended to. In this connection the "Volver a Casa" subprogramme encourages children to become actively involved in dealing with matters affecting them:

(i) In administrative proceedings concerning children, if the children are old enough and sufficiently mature they are guaranteed the right to state their views, and their participation and views are recorded (two cases of complaints by children which gave rise to summary hearings);

(ii) Where the police are concerned, children have come forward of their own accord to report irregular situations affecting their living conditions in institutions; this testifies to the level of awareness which children are acquiring with respect to their rights (two cases);

(iii) Effective participation by children suffering abuse, both in matters handled by the police and in the courts. In these cases, what the children had to say was taken as evidence and formed the basis for prosecutions resulting in the detention of the accused;

(iv) The subprogrammes "Porvenir" and "Casas de Estudio y Trabajo" (Study and Work Homes) encouraged the creation of spaces for discussions with teenagers (workshops, talks and debates): rules were agreed with the teenagers (participation, drafting, implementation, organization of the internal inter-relationships, and evaluation), and a participatory organizational council was formed, in which the young people have an opportunity freely to express their ideas, suggestions, opinions, etc. at meetings and assemblies.

Province of Chubut

212. The legislation on the comprehensive protection of children and the family stipulates that it is the duty of the State to safeguard children's right to be heard in any judicial or administrative proceedings affecting them.

Article 13. Freedom of expression

213. Without prejudice to what was stated in the preceding report to the Committee, it is appropriate to add the following:

214. Article 14 of the Constitution reads:

> "All inhabitants of the Nation enjoy the following rights in accordance with the laws that regulate their exercise, namely: the right ... to publish their ideas in the press without prior censorship".

215. Furthermore, article 15 states:

> "The Federal Congress shall not enact laws restricting freedom of the press or establishing federal jurisdiction over it".

216. Article 1071 bis of the Civil Code stipulates as a general rule:

> "The regular exercise of an individual right or the fulfilment of a legal obligation cannot constitute an unlawful act. The law does not protect the abusive exercise of rights. Any act that runs counter to the purposes which the law envisaged when recognizing the said rights or exceeds the limits imposed by good faith, morality and decency shall be deemed abusive".

In view of this rule of civil law, the issue which has to be decided is whether the right in question has been exercised within the established limitations, i.e. in a manner that is not abusive.

Article 14. Freedom of thought, conscience and religion

217. In accordance with the information contained in the core document submitted by the Republic of Argentina on 1 July 1996 (HRI/CORE/1/Add.74), such documents forming an integral part of the reports of States parties, and without prejudice to the recognition of the freedom of worship in the first Argentine Constitution, that of 1853, it can be said that Argentina is basically a Catholic country owing to its historical and cultural traditions. Article 2 of the current Constitution accordingly states that "the National Government supports the Apostolic Roman Catholic faith", referring to the financial support given to the institutions of the Apostolic Roman Catholic Church.

218. Following the 1994 reform, adherence to the Apostolic Roman Catholic faith is not a requirement for holding the presidency of the country, as it was under the 1853/1860 Constitution. It is also the case that members of some of Argentina's religious communities are given the day off with pay on religious holidays; one example is the members of the Jewish community, who pursuant to Act No. 24.571 (see annex) enjoy paid time off on the principal Jewish holy days: New Year (Rosh Hashana), Day of Atonement (Yom Kippur) and Passover (Pesach); this is also the case for the Islamic community pursuant to Act No. 24.757 (see annex), which declares non-working days for all the country's inhabitants who profess the Islamic faith: New Year (Hegira); the day following the end of Ramadan (Id Al-Fitr) and the Feast of the Sacrifice (Id Al-Adha).

219. As stated in the information given in connection with article 18 of the Convention, in Argentina parental authority is shared by the two parents, and the exercise of this authority involves a series of rights and duties for the guidance and comprehensive development of their children which parents must fulfil.

Article 15. Freedom of association and peaceful assembly

220. With regard to the freedom of association and peaceful assembly in labour matters, article 14 bis of the Constitution states:

> "Labour in its various forms shall enjoy the protection of the law, which shall guarantee workers ... free and democratic trade union organization subject to no other formality than registration in a special register".

Argentina's legislation reaffirms this constitutional principle and the relevant international provisions and regulates the establishment, operation and activities of workers' trade unions: Act No. 23.551, promulgated by the Executive on 14 April 1988 and published in the Boletín Oficial on 22 April 1988, and its enabling Decree No. 467/88 of 14 April 1988.

221. It is important to stress here that this Act requires members to be aged at least 14, in accordance with the regulations on the prohibition of work by minors discussed under article 32 of the Convention (see below).

Article 16. Right to privacy

222. Article 18 of the Constitution states:

> "A person's home, correspondence and private papers are inviolable, and the law shall determine in which cases and on which grounds the search or seizure thereof may be effected".

Article 19 continues:

> "The private actions of human beings which in no way offend public order or morality or injure a third party are a matter for God alone and lie outside the competence of the Judiciary".

223. As regards the jurisprudence on this subject, it is important to note the views expressed by the Supreme Court in what constituted a "leading case" relating to respect for honour and privacy:

Indalía Balbín v. Editorial Atlántida S.A. (damages)

"... article 19 affords legal protection of an area of individual autonomy that comprises feelings, habits and customs, family relations, economic status, religious beliefs, mental and physical health and, more generally, the activities, acts or information which, having regard for the way of life accepted by the community, are confined to the individual, so that knowledge or disclosure of them by other persons would represent a real or potential danger to privacy. Indeed, the right to privacy covers not only the domestic sphere, the family circle and friendship, but also other aspects of the physical and spiritual identity of the individual, including the inviolability of his body and image; hence no one may interfere in a person's private life or violate aspects of his activity not intended to be made public without the consent of that individual or of relatives empowered to give such consent, and intervention may be justified only by law where there exists a higher interest to safeguard the freedom of others, to protect society and decency, or to prosecute crime ...".

224. Following this reasoning, in the judgement of 6 April 1983 in the Marcelo Bahamondez (precautionary measure) case, two members of the Supreme Court stated:

> "With regard to the constitutional framework of the rights of the individual, it may be said that the jurisprudence and doctrine see this as including privacy, conscience, the right to one's own separate existence and the right to make fitting use of one's own body. In point of fact, when article 19 of the Constitution says that "[t]he private actions of human beings which in no way offend public order or morality or injure a third party are a matter for God alone and lie outside the competence of the Judiciary", it grants all persons a prerogative to take decisions on their activities, their work, their own bodies, their own lives, on whatever is theirs. It has ordered human life in society on the basis of attributing to the individual a domain subject to his own will, and this capacity to work free from impediment entails the capacity to react to or oppose any proposal, opportunity or attempt to narrow the limits of that prerogative. The present case is concerned with dominion over one's own body and hence with a good recognized as belonging to each individual and guaranteed by article 19 of the Constitution. That constitutional provision is given substance by man, who leads his life by means of actions which

are the expression of his work at liberty. Thus, life and liberty form the infrastructure upon which the constitutional prerogative enshrined in article 19 of the Constitution is based".

225. The national courts have applied the regulations on children's right to privacy as follows:

> "The question of the precedence of the right to privacy over freedom of the press should not be decided as a question of prior censorship, for there are rules of equal constitutional rank which prevent the dissemination of information concerning children. The freedom to seek, receive and disseminate ideas of all kinds (American Convention on Human Rights, art. 13) cannot be extrapolated in such a way as to damage, under the protection of an apparent violation of one constitutional guarantee, real guarantees of the same kind, such as those deriving from articles 3 and 16 of the Convention on the Rights of the Child and from the right to privacy protected by article 1071 of the Civil Code". (Civil Court, Chamber C, 3 October 1996.)

> "The right of all children to be protected by their family against unlawful or arbitrary interference renders unlawful the conduct of any person who publishes photographs of a naked child taken by his or her mother who is alive and has tried to modify certain behaviour by another person in order to secure proper respect for her family". (CNCiv, Chamber C, July 1996, A.C. v. Editorial Perfil.)

226. Furthermore, with regard to action concerning personal data kept in public or private records, the Constitution states in article 43, paragraph 3:

> "These proceedings may be initiated by any person in order to obtain information about the content and purpose of data relating to himself contained in public or private records or data banks intended for use in reports and, if the information is false or discriminatory, to demand that it be destroyed, corrected, made confidential or updated. The confidentiality of journalists' sources of information shall not be affected".

227. See the additional comments on the right to information under article 17.

Province of Chubut

228. The Act on the comprehensive protection of children and the family states that no public or private mass communication medium may publish or disseminate information which identifies or may lead to the identification of child victims or child violators of the criminal law or the law of misdemeanours. The Act also specifies fines for failure to comply with its provisions. The proceeds of these fines are paid into a special fund for the comprehensive protection of children and the family.

Article 17. Access to information

229. The 1994 reform of the Constitution included among the new rights and guarantees the possibility of initiating amparo proceedings in respect of personal information contained in public or private records. Accordingly, by invoking the right to freedom of information any person may argue before the courts that he should have access to data on himself held in such records and demand that such information should be destroyed, corrected, made confidential or updated (art. 43, para. 3).

230. Although this right is enshrined in the Constitution, it has not been the subject of enabling legislation in the National Congress. But this consideration has not prevented the Supreme Court from addressing the issue. For there are many legal precedents to the effect that "the absence of legal regulations does not impair the validity of certain rights which, by their nature, may be invoked, exercised and protected without the backing of any legislative provision". (Proceedings: 315:1492.)

231. Again in connection with this right, the Supreme Court stated:

> "When hearing a case concerning a guarantee not the subject of regulation the Court is considering not a law but a Constitution, which is intended by its nature to fix the Legislature's framework of action, laying the general legal foundations that will govern the lives of future generations. Accordingly, a judge's approach in this matter cannot follow the strict line of the hermeneutical rules of someone who is examining a code, who is seeking to provide for all possible contingencies - within human limits; instead he must be concerned only with those rules which are compatible with the text and allow respect for its spirit and purposes". (Urteaga, Facundo Raúl v. National State/Joint Chiefs of Staff/Amparo Act No. 16.986. Judgement of 15 October 1998.)

232. The National Congress is currently considering draft enabling legislation on this right. This regulatory framework is planned to include inter alia the obligation of bodies keeping databases to give prior written notice, without cost to the persons to whom the data refer, of the entry in a database of information or reports on the financial or commercial background of physical or juridical persons; it will create a criminal offence which will enable persons on whom data is kept to bring criminal actions when necessary.

233. Similarly, article 16 of the Constitution of Buenos Aires City states:

> "Every person shall have, by means of an amparo action, free access to information kept in any register, record or data bank by a public or private body which is intended for use in reports, in order that he may learn about any entry concerning his person or origins and about the use or purpose of such entries. He may also require the information in question to be updated, corrected, made confidential or destroyed when it may impair or restrict some right".

Article 18. Parental authority. Guardianship. Representation of children

234. With regard to the special rules on the exercise of parental authority, Act No. 23.264 of 1985 amended the parental authority and filiation regime contained in the Civil Code. As a result of this amendment the exercise of parental authority is now shared by the two parents, even though they may not have the same legal status; the new Act replaces all the provisions of the previous legislation, which maintained privileges based on the husband's status as head of the family.

Joint parental authority

235. Parental authority comprises the various duties and rights that parents have in respect of their children and their property with a view to their protection and comprehensive upbringing from conception onwards and for as long as they remain minors, unless they become emancipated.

236. It is exercised:

(1) In the case of children of the marriage, by the father and mother jointly provided that they are not separated or divorced and their marriage has not been annulled. Action taken by either is presumed to have been taken with the consent of the other, except in the cases referred to in article 264 quater or when the other objects at the time;

(2) By the parent awarded legal custody in the event of de facto separation, legal separation, divorce or annulment of the marriage, without prejudice to the other's right to have adequate contact with the child and to supervise its upbringing;

(3) By the other parent in the event of the death, disappearance presumed dead, or withdrawal or suspension of the parental authority of either parent;

(4) In the case of a child not of the marriage who is recognized by just one parent, by the parent recognizing the child;

(5) In the case of a child not of the marriage who is recognized by both parents, by both parents if they are living together; otherwise by the parent to whom custody has been awarded by agreement or judicial decision or whose custody has been recognized in summary proceedings;

(6) By the person legally adjudged the father or mother of the child, if the child has not been voluntarily recognized.

237. Parents exercising parental authority have the right to raise, support and educate their children in keeping with their status and means, using not only the children's assets but also their own.

238. The obligation of support means meeting the child's needs in respect of upkeep, education and recreation, clothing, housing, assistance and illness-related costs. The obligation does not lapse even when the child's needs arise out of his/her own misconduct.

239. If the father or mother fails to fulfil the obligation of support, he or she may be sued for support by the child, assisted, if an adult minor, by a special tutor, by any member of the family, or by the Government Procurator for Minors.

240. In accordance with article 306 of the Civil Code, parental authority lapses on the death of the parents or children, if the parents (or the children with the parents' permission) enter a monastic institution, when the children reach the age of majority, if the children become legally emancipated (without prejudice to the continuation of the right to administer property acquired free of charge), if the marriage took place without authorization, or if the children are adopted, without prejudice to the possibility of reinstatement of parental authority if the adoption is set aside or annulled.

241. In addition to the grounds mentioned in the preceding paragraph, attention is drawn to what was stated above under article 9 in relation to the legal grounds for depriving parents of parental authority (if they are convicted as principals, co-principals, instigators or accomplices in a culpable offence against the person or property of any of their children, or as co-principals, instigators or accomplices in an offence committed by the child; if they desert any of their children, in respect of the child so deserted, even if he or she remains in the custody of, or is recognized by, the other parent or a third party; or if they endanger the child's safety or mental or physical health by ill-treatment, bad example, flagrant misconduct or delinquency), and in relation to the implications of judicial suspension of parental authority, etc.

242. Following the reform of the Civil Code by Act No. 23.515 no distinction is made in the treatment of children born within and out of wedlock.

243. It is important to remember that the National Council for Children and the Family, which operates under the Ministry of Health and Social Welfare, is still working on the tasks which led to its establishment by Decree No. 1606/90, as described in Argentina's second periodic report under the Covenant on Civil and Political Rights (CCPR/C/75/Add.1, para. 73).

244. Pursuant to the new provisions contained in article 75, paragraph 23, of the Constitution, the National Congress will have to enact a special integrated social system for the protection of children in a

situation of desamparo from conception to the end of their elementary education, and for the protection of mothers during pregnancy and breastfeeding.

Article 19. Measures to combat physical and mental abuse, neglect, negligent treatment, exploitation and sexual abuse

245. The National Council for Children and the Family is a decentralized body having responsibility for the functions of the State with regard to the comprehensive protection and promotion of children and the family. One of its main functions is to prevent and deal with the consequences of the abandonment of children, paying special attention to the coordination of the machinery for addressing the problems of children at risk, street children, children whose labour is exploited, and children suffering any other impairment of their dignity.

246. When it comes to the protection of children who have been abandoned or are in moral or material danger, the problem of competing national and provincial jurisdictions over cases involving children at risk points to the need to agree on common and coordinated care measures.

247. In the context of the Federal Agreement on the Protection of Children and the Family, and through the Federal Council for Children and the Family or through bilateral agreements, the National Council provides technical support to ensure that the commitments undertaken by Argentina are fulfilled throughout the country, thus investing the real rights of all children living in Argentina with the advantages of homogeneity and coherence.

248. The Street Children Programme operates under the auspices of the National Council (it was in fact in operation even before the National Council's creation); its aim is to provide individual care for children living in the streets.

249. A network of programmes and services designed to tackle this problem was established by Order No. 270/90; this network is gradually being improved and is drawn upon as needed by the programmes to combat the exploitation of children.

250. In November 1993 a plenary meeting of the National Council decided to devote a specific programme to the care of children exploited by adults as beggars, workers or prostitutes or in criminal activities, in the face of evidence that the great majority of the children roaming the city streets were being managed or supervised or had been forced into this life by adults living off the earnings of the children's marginal activities.

251. The programme's objectives:

(i) To identify cases of child exploitation, distinguishing them from survival strategies or other risk situations requiring specific attention (work, mental health, cultural factors, urban development, etc.);

(ii) To restrict and prevent, by all legal means, the exploitation of children by adults;

(iii) To provide exploited children and their families with the greatest possible support through specific and general social measures and programmes at the national, provincial and municipal levels;

(iv) To guarantee, in particular, access to education, physical and mental health services, vocational training, leisure and cultural activities for all children victims of exploitation;

(v) To create grass-roots awareness of the problem.

252. Without prejudice to the ad hoc measures required for the purposes of a flexible strategic response to this kind of exploitation, the programme's measures will fall within the following general categories:

(i) Interinstitutional coordination (public and non-governmental organizations with expertise in this field);

(ii) Inventory of cases: field study of the prevailing types of child exploitation, the adults involved and the child victims. The costs will be borne by the programme;

(iii) Grass-roots awareness campaigns using mass publicity, seminars, courses, etc.;

(iv) Social intervention (technical and professional diagnosis and treatment, both for the children and for the families which enrol voluntarily in the programme;

(v) Involvement of the Government Procurator's Office and the competent courts. When legal action is required for dealing with cases of exploitation, for the arrest and prosecution the exploiters or for the removal of children from their families, such action will be taken by duly authorized officials;

(vi) Safeguarding of exploited children. In cases where children's work continues to be exploited despite the social action taken, the National Council will take the necessary measures of protection to prevent the situation from continuing further, either by court order or by exercising its own powers to protect children at risk.

253. The programme's resources:

(i) Community resources: permanent staff and volunteers under community supervision. Donations in kind will be accepted for direct transfer to children and their families. If such donations cannot be distributed to the programme's beneficiaries, the procedure outlined in the current legislation on donations to the State will be followed;

(ii) Interinstitutional resources: a list of the existing human resources in other national, provincial and municipal institutions available to help children and their families will be compiled - and updated , expanded and improved through field research;

(iii) Specific resources of the programme: local care personnel, 24-hour telephone lines, vehicles, emergency allocations for food, clothing, footwear, medicines, materials and equipment, transport, and anything else needed by exploited children or their families when such needs cannot be met immediately by the ordinary programmes, as well as transit centres (public or non-governmental) which accept children immediately for short stays and meet the daily costs, etc.

254. Furthermore, the Procurator-General, to whom all the country's procurators report, created an office to provide legal, social and psychological assistance for women and children victims of domestic abuse or violence.

255. The intention is to reverse a policy on crime which over the past 10 years was aimed exclusively at providing every kind of guarantee and safeguard for offenders.

256. The establishment of the Office for Comprehensive Assistance for Victims of Crime (OFAVI) was based on the conviction that an exclusive preoccupation with the offenders had led institutions to disregard and neglect the victims and thus to victimize them twice over. That is why measures must be introduced to help the victims.

257. This double victimization is inflicted on people who, having fallen victim to a crime and having reported it, then become victims of all the measures taken by the State to investigate the case and bring the perpetrators to trial. This situation manifests itself in fear, lack of protection, ignorance, ill-treatment, wasted time, etc.

258. OFAVI is considering how to help victims at two levels:

- Provision of social, psychological and medical assistance to protect and support them. It will try to support victims in any legal proceedings in which they become involved;

- Provision of legal assistance throughout the case: explaining to victims their rights and informing them in language which they can understand about matters connected with the production of expert reports (ensuring that their dignity is respected) and questioning.

259. The ultimate aim is that the victims should be able to overcome the harm suffered by themselves and their families.

260. The OFAVI team consists of two doctors, two psychologists, a psychiatrist, a social worker, four lawyers, and a procurator to receive complaints.

261. OFAVI will work through a network of professionals from governmental agencies already providing fragmented services. These include a number of hospital services providing assistance to victims of domestic violence or child abuse, care centres for children, and hostels for single mothers. Although to begin with the Office will give priority to women and children victims of sexual crimes or child abuse, it is hoped that its scope will be extended to all crimes over the next six months.

262. The Office's objectives and functions are based on the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the United Nations General Assembly in November 1985. The following are the Declaration's main points:

- "Victims" means persons who have suffered harm (including physical or mental injury, emotional suffering, economic loss or impairment of their fundamental rights) through acts or omissions that are in violation of criminal laws (national or international) or human rights law;

- Victims must be treated with compassion and respect for their dignity. They are entitled to access to justice and to prompt redress for the harm suffered.

263. One of the first cases that the Office took up concerned a young woman from Salta province who came to the Federal Capital for a job; on her first day in the city she was raped in the house where was employed. After reporting the rape she returned to her home town.

264. The case came up for oral hearing this year. The prosecutor handling the case requested help from the Office. The OFAVI team contacted the woman, persuaded her not to be afraid of flying, and provided her with a ticket to Buenos Aires. A social worker went to meet her at the airport and brought her back to the lodgings taken for her. The social worker also accompanied her to the court hearings, and a lawyer explained to her what each step of the proceedings meant. The victim was also

interviewed by psychologists to prepare her for the moment when she would have to confront her attacker again.

265. The national legislation on the wardship of minors (Act No. 10.903 amending the parental authority regime) provides a guarantee of a minor's right not to be subjected to abuse or exploitation. This Act had to be reviewed: some of its provisions needed to be amended, for a considerable time has passed since its entry into force, and its intended beneficiaries were facing new problems. As a result, at the end of 1998 an amended version of the Act, which is more fully in line with the principles of the Convention, was adopted by the Chamber of Deputies of the National Congress.

266. In this same connection, on 7 December 1994 the National Congress adopted Act No. 24.417 on protection against domestic violence. This Act states:

> "Article 1. Any person who suffers harm or physical or mental injury by any member of his or her family may report the facts orally or in writing to the court having competence in family matters and may request the relevant precautionary measures. For the purposes of this Act "family" means a group of persons having its origins either in a legal marriage or in a de facto marriage".
>
> "Article 2. When the person suffering the harm is a minor or other legally incompetent person or an elderly or disabled person, the facts shall be reported by their legal representatives and/or the Government Procurator. Public or private social welfare and education services, health professionals and all public officials also have an obligation to report any such cases discovered in the course of their work. Minors and other legally incompetent persons may report the facts directly to the Government Procurator".
>
> "Article 4. Having considered the facts giving rise to the report, the court may order the following precautionary measures:
>
> (a) Exclude the perpetrator from the family home;
>
> (b) Prohibit the perpetrator from entering the home or the places of work or study of the injured party;
>
> (c) Order the return home of a person who has left for reasons of personal safety, except for the perpetrator;
>
> (d) Make a provisional order on maintenance, custody and communication with the children.
>
> The court shall fix the duration of such measures in the light of the circumstances of the case".

The full text of the Act is annexed to the present report.

267. Attention is drawn by way of example to the measures taken by the provinces to ensure that parents and other legally responsible persons perform their duties:

Province of Chaco

268. The "Candelaria" subprogramme offers an alternative to placement of children in an institution. The aim is to reunite the family and ensure that its members exercise their rights and fulfil their

obligations by establishing specific objectives, targets and activities. The point is that the programme is not a substitute for the family but a means of helping to secure its unity.

269. The "Casas de Estudio y Trabajo" subprogramme establishes permanent contact with the parents in order to keep them informed about the situation of the young people in matters connected with assistance, school performance, behaviour and health. The families are also kept informed about questions of general interest (workshops, social events, discussion groups, interviews and home visits); the parents' permission is sought for their children to take part in activities and they are consulted about the timing of the children's return; help is provided for family reunions during school holidays and with the travel costs of persons living in other locations or in remote rural areas; families are encouraged to take part in social events with their children in the work and study homes.

270. The "Casas del Sol" base their work on knowledge of the persons being protected and cared for, and they facilitate the development of the skills and aptitudes of a family's children. One of this subprogramme's priorities is to build links with the families in order to teach them the principles of child-raising and to support the persons most in need. Sex education workshops were held for families in 1997 in the five casas participating in the UNICEF pilot project. In the other casas the parents are encouraged to take part in entertainments and commemorative events and to attend exhibitions of the children's work. The teachers interview the mothers in order to obtain fuller details of the children's home backgrounds and habits.

271. The "Porvenir" subprogramme seeks to provide families with immediate assistance and with counselling and training to help them to increase their incomes, as well as assisting children who have been abandoned, whose families have broken up, whose parents are in an unstable relationship, or who have been excluded from the family home by a step-parent.

272. With regard to the problem of child abuse, the "Volver a Casa" subprogramme provided legal advice in one case of abuse involving three children. It collaborated with an NGO in the police and judicial procedures. The investigation resulted in the confirmation of the allegations and the arrest of the accused. The children were given psychological help.

273. The "Solidarity Network" programme deals with the problems of families broken up by domestic violence. It has been in operation for only a few months. Assistance is provided at the request of the victims and/or by referral and it is limited to psychological support and legal advice on how to proceed with the case.

Province of Mendoza

274. The family programmes operated locally by the provincial authorities are designed to strengthen a family's links in order to facilitate its members' development and growth and protect their rights.

275. The general aim of the family promotion and protection programme is to help families whose most vulnerable members are at risk of expulsion or exclusion by strengthening the family bonds and the local support networks. The specific aims are:

- To provide technical backup and supervision of the management of the components decentralized to the province's various departments;
- To furnish care and attention to children in their homes when their parents are temporarily absent for work or health reasons or are temporarily unable to care for their children themselves. The persons providing this service will be chosen by the parents and will preferably be from the local community;

- Technical backup, advice and supervision in the formulation and execution of decentralized domestic violence projects carried out by municipalities or NGOs;
- Support for municipalities and grass-roots organizations carrying out training, leisure and sports activities as supplementary components of programmes to enhance the development and growth of children and young people in a strengthened family space;

276. Another move was to introduce the child and family development centres, with the general aim of providing integrated services for children, especially children whose mothers go out to work. The specific aims of these centres are:

- To attend to the care, hygiene and diet of children aged between 45 days and 12 years belonging to needy families living in the centre's vicinity;
- To introduce a programme of psychological stimulation and school support to foster such children's harmonious development and growth;
- To provide meeting spaces for grass-roots activities for the families having a connection with the centre and for other families in the community with a view to consolidating their family bonds.

277. Where assistance, prevention, etc., are concerned, the province is running a Street Children Programme for children with problems of physical or mental abuse, neglect, negligent treatment, exploitation or sexual abuse; the general aim is to encourage such children to return to their families by means of the street-survival projects operated by the microcentres and to help them to reintegrate themselves in their home communities by strengthening the local support networks. The specific aims are:

- To identify and make contact with families with children aged under 12 in order to involve them in the street-survival projects;
- To collaborate with the local grass-roots network in support measures;
- To provide training and work in the family and the community for girls aged under 12 who are at risk of sexual exploitation;
- To provide economic support to enable children referred by the programmes operated by the Children's Office to return to their families;
- To identify local families able to assume temporarily a parental role for children who cannot continue to live with their own families;
- To introduce specific training modules for dysfunctional families in which the children have taken over the parents' role as breadwinners, families whose bonds are not strong enough to foster the children's development and in which the children's rights are violated, families which have expelled their children, and families with weak links to grass-roots networks.

Province of Tierra del Fuego, the Antarctic and the South Atlantic Islands

278. Programme on prevention of abandonment. Family and social measures for mothers (minors and adults) at social risk. Individual support is provided, using all the resources of the community, by a group of social workers trained under an agreement between the National Council for Children and the Family and the provincial government. The programme covers the whole province; at present there are nine social workers engaged on 72 cases under the supervision of social services professionals.

279. The following information is offered, by way of example, about the measures taken to enable children of working parents to take advantage of day-care services:

- Early childhood division. This includes the mother and child day centres, which look after some 400 children while their parents are at work, consolidating the children's social and emotional development, providing a balanced diet, helping the family to stay together, and making it easier for parents to go out to work when their social and economic circumstance so require. The programme is restricted to the population at risk, and care centres are now being set up on the outskirts of the cities.

- Accommodation for school children. Accommodation is provided from Monday to Thursday for primary pupils whose parents live in the rural parts of the province. Out-of-school activities are arranged for the children, who practise the religion of their parents' choice, receive a balanced diet, and live in a family setting with all their basic needs satisfied. There are currently 19 children in this programme.

Province of Entre Ríos

280. The need to focus its care policies on the family prompted the provincial authorities to introduce the following programmes: "little families"; subsidized foster families; subsidized families; and foster families. These programmes cater for 600 children from all over the province.

Province of Buenos Aires

281. Several programmes have been devised to promote physical and mental rehabilitation and social reintegration.

- The "little citizens" programme: the aim is to provide support, advice, guidance and referral services in situations of domestic violence and/or severe crisis reported by telephone, with a view to the early protection of the mental and physical integrity of children and their nuclear families.

- The social assistance service for families: this service provides non-institutional support for families or unmarried couples with children who are exhibiting behavioural problems or are affected by problems which have led to judicial intervention. Its case load has increased because it is regarded as a valuable referral resource by the juvenile courts and by community institutions in general: it offers a specific approach to family conflicts, whose number is increasing every day.

- The programme on temporary economic support to avoid placement: the aim is to avoid the placement of children, young people and under-age mothers in the event of economic difficulties with child-raising or support in the home. This one-year programme is part of an agreement with the Procurator-General of the provincial Parliament. Its design includes an evaluation matrix for the continuous assessment of children at risk throughout the province.

Province of Chubut

282. The Act on the comprehensive protection of children and the family urges anyone who becomes aware of a situation detrimental to a child's physical, mental or social integrity to report it to the competent agencies.

283. Such reports are confidential in respect of the identity of the informants and the contents of the report.

Article 20. Children temporarily or permanently deprived of their family environment

Province of Buenos Aires

284. The province has introduced a number of programmes for the protection of children temporarily or permanently deprived of their family environment.

Public assistance institutions

These bodies provide protection and other services for juveniles in situations of social/family conflict. The province has 28 institutions with 888 places. The number of places provided did not change during the period 1993-1997.

Residential homes

These homes provide juveniles referred by the courts by reason of social problems with a home in which they receive an adequate diet, clothing, education and work training. The services are provided by NGOs under agreements with the province's Council for Children and the Family, which supervises them in accordance with the programme's objectives. This programme has 238 establishments and 4,611 places. The increase in the number of places during the period 1993-1997 and the greater use made of subsidized private institutions instead of public ones point to a policy of providing funding for grass-roots organizations working with children at risk.

"Little homes"

These homes attend to the upbringing of children and young people who lack the protection of a family for reasons reversible in the medium- or long-term or who find themselves in situations which cannot be reversed directly, with a guaranteed stay for as long as necessary in a family-style context. The province has 61 establishments with 545 places in this programme.

Transitional homes

This programme is designed to prevent the break-up of families and provide continuing assistance in an effort to solve the problem in question; it houses juveniles on a temporary basis for a maximum of six months. The programme and its nine establishments with 51 places was absorbed in 1996 by the residential homes programme.

Family homes for street children

This programme has 29 establishments with 649 places and provides care for street children in the family homes of reliable adults

Penal institutions

These institutions care for juveniles in conflict with the law, providing appropriate treatment in each specific case. The juveniles may be housed in various care institutions, depending on the seriousness of their offence and their psychological make-up. At present the province has 12 establishments with 323 places.

Support centres

These institutions cater under an open regime for juveniles aged 12 to 18 who are at serious social risk or have committed minor offences: the inmates live together and receive individual attention. The province has five of these establishments with 46 places.

Integrated metropolitan system

This system offers an alternative means of training and graduating juveniles placed in institutions for social welfare reasons; given the right personal and social attitudes they can take either instruction in vocational subjects for the award of a higher academic qualification or short vocational training courses to enable them to obtain jobs. Every young person in the programme receives a study grant and technical supervision by professional psychologists. The programme is implemented under an agreement with the Procurator-General of the Court of Justice of Buenos Aires province which requires each party to contribute funds. Economic support is also received from private institutions and members of the Legislature.

Province of Chaco

285. See the table in the annex, which sets out the various provincial programmes.

Province of Mendoza

286. Mendoza has introduced a family-carers programme with the general aim of helping children and groups of siblings aged up to 20 who do not have serious behavioural problems but have been temporarily or permanently deprived of their own families and are technically in a situation of risk and/or neglect by furnishing a supportive family environment, which provides access to education and training, gives the children an identity, and fosters the comprehensive development of their personalities and their integration in the community.

287. There is also the "Shelter" programme, which has the general aim of protecting children's rights by providing comprehensive attention to their social and personal development and psychological integrity, housing them in residential homes for as long as necessary and then promoting their reintegration in their families and communities.

Province of Tierra del Fuego, the Antarctic and the South Atlantic Islands

288. A foster families programme was operating successfully in 1997. It provides training for the public at large with a view to securing an alternative solution for children and young people who for various social and family reasons have to be removed temporarily from their natural families until the

circumstances causing the intervention have been corrected. Direct individual care is furnished to children and young people from seriously dysfunctional families in which the parental roles are not clearly established and the atmosphere is one of violence, etc.

289. The year 1997 was significant in that it marked a turning-point in the interest taken by the public in this kind of alternative system. The programme covers the whole province and has 14 families registered in the town of Ushuaia and 12 in Río Grande. The main difficulty is to persuade juveniles to accept this care alternative; methods are being devised to overcome this problem.

290. The annex contains statistics on the programme for 1994-1995.

Article 21. Adoption

291. Where subparagraph (a) of this article is concerned, as stated in the information on the action taken to prevent trafficking in minors the Government adopted Act No. 24.779 of 28 February 1997 amending the regulations on adoption contained in the Civil Code.

292. The new legislation is based on full respect for the best interests of the child and establishes clear rules designed solely to ensure that all adoptions are granted by the competent judicial authorities in full compliance with all the requirements of the legislation:

General provisions

"Article 311. The adoption of unemancipated minors shall be granted by judicial order at the request of the adoptive parent. Persons of the age of majority and emancipated minors may be adopted with their consent when:

1. The person is the child of the adoptive parent;

2. The person has the status of child, duly verified by the judicial authority".

"Article 312. No one may be adopted by more than one person at the same time, except when the adoptive parents are married to each other. However, in the event of the death of the adoptive parent or of both the adoptive spouses, the same minor may be adopted for a second time.

An adoptive parent must be at least 18 years older than the person to be adopted, except when a surviving spouse adopts the adopted child of a predeceased spouse".

"Article 313. Several minors of either sex may be adopted simultaneously or in succession.

In the event of such a multiple adoption, all the adoptions must be of the same type. The adoption of a child of one's spouse shall always be regarded as simple adoption".

"Article 314. The fact that an adoptive parent has descendants shall not prevent an adoption, but such descendants may be heard by the court, with the attendance of a juvenile procurator if necessary".

"Article 315. Any person who satisfies the requirements of this Code may be an adoptive parent regardless of his or her civil status, provided that he or she can prove reliably and without any doubt permanent residence in the country for a minimum period of five years prior to the application for custody.

Adoption is prohibited in the following cases:

(a) Persons under the age of 30 may not adopt unless they are spouses who have been married to each other for more than three years. Spouses who have not been married to each other for three years may adopt, provided that they can prove that they are unable to have children;

(b) Ascendant relatives may not adopt descendant relatives;

(c) Brothers and sisters may not adopt their half-brothers of half-sisters".

"Article 316. An adoptive parent must have had the child to be adopted in his custody for a period of not less than six months but not more than one year fixed by the court.

Adoption proceedings may not begin until six months have passed from the start of the custody.

Such custody must be granted by a court having jurisdiction in the child's place of residence, where the child's abandonment has been verified by a court.

These conditions do not apply to the adoption of the child or children of a spouse".

"Article 317. The following conditions apply to the award of custody:

(a) The child's parents must be named, so that they can give their consent to the award of custody with a view to adoption.

Such consent is not needed when the child is living in a care establishment and the parents have taken no interest in him for a whole year or when the child's moral or material neglect is obvious and continuing and one of these situations has been verified by the judicial authority. Nor is it needed when the parents have been deprived of parental authority or when they have stated in legal form their express wish to give the child up for adoption;

(b) The court must interview the child to be adopted in person;

(c) The court must know the personal circumstances, age and aptitudes of the child or children to be adopted and take into account their needs and interests, having benefited from an actual contribution by the Government Procurator and heard the opinion of the technical team consulted for this purpose;

(d) The conditions stated in the preceding subparagraph shall likewise apply with respect to the biological family.

If the court fails to comply with the conditions stated in subparagraphs (a), (b) and (c) the award of custody shall be void".

"Article 318. The award of custody of a child by a written instrument or administrative act is expressly prohibited".

"Article 320. A married couple may adopt only if they act jointly, except in the following cases:

(a) When a legal separation order is in force;

(b) When one of the spouses has been declared insane; in such cases the court must hear the curator and the Government Procurator for Minors;

(c) When a court has declared the simple absence, the absence presumed dead, or the forced disappearance of the other spouse".

"Article 321. The following rules must be observed in the adoption hearing:

(a) The proceedings must take place before a court at the place of residence of the adoptive parent or at the place where custody was awarded;

(b) The parties in the proceedings are the adoptive parent and the Government Procurator for Minors;

(c) If it deems fit in the light of the child's age and personal circumstances, the court may allow the child to be present during the proceedings, in accordance with the law, together with any other person which the court deems appropriate with a view to protecting the child's interests;

(d) The court shall assess whether the adoption is appropriate for the child on the basis of the means of subsistence and the moral and personal qualities of the adoptive parent or parents; it shall also take into account the age difference between the child and the adoptive parent;

(e) The court may order and the Government Procurator for Minors may require any evidence or other information which they deem fit;

(f) The hearings shall take place in private and the record shall be classified as confidential. It may be examined only by the parties, their counsel and authorized representatives, and the experts taking part in the proceedings;

(g) The court may not deliver up or remit the documents of the case and may issue only statements of its findings in response to a justified request by another court, which shall be obliged to respect the principle of confidentiality in order to protect the child's interests;

(h) The court's order must state that the adoptive parent has undertaken to inform the child about his biological origins;

(i) The court must in all cases take the best interests of the child into account".

"Article 322. The adoption order shall have effect retroactively to the date of the award of custody.

In the case of a child of a spouse the retroactive effect shall run from the date of the initiation of the proceedings".

293. The current legislation establishes two categories of adoption.

294. Full adoption, which is irrevocable. It confers on the adopted child a filiation which takes the place of the original filiation. The child ceases to belong to his biological family and kinship with the members of that family is extinguished together with all its legal effects, with the sole exception that the impediments to marriage persist. The child has in his adoptive family the same rights and duties as a biological child (art. 323).

295. Full adoption may be granted only with respect to children:

(a) Who are orphaned of both their parents;

(b) Who have no accredited filiation;

(c) Who are living in a care establishment and their parents have taken no interest in them for a whole year or when their moral or material neglect is obvious and continuing and one of these situations has been verified by a judicial authority;

(d) Whose parents have been deprived of parental authority;

(e) Whose parents have stated in legal form their express wish to give them up for adoption.

296. The requirements of articles 316 and 317 must be satisfied in all cases (art. 325).

> "Article 327. Once full adoption has been granted, the adopted child may not be recognized by the biological parents, nor may the child institute filiation proceedings in respect of the biological parents, with the sole exception of cases when the purpose of such proceedings is to prove an impediment to marriage in accordance with article 323".

297. Simple adoption, which confers on the adopted child the status of biological son or daughter, but without creating kinship between the child and the biological family of the adoptive parent except for the purposes specified expressly in the Code. When it is more appropriate for the child or at the request of one of the parties on justified grounds, the court may grant simple adoption (art. 330). The adopted children of the same adoptive parent are regarded as siblings.

> "Article 331. The rights and duties deriving from the adopted child's biological link are not extinguished by the adoption, except for parental authority including the administration and usufruct of the child's property transferred to the adoptive parent, except in the case of the adoption of a child of a spouse".

> "Article 333. An adoptive parent is heir to an intestate adopted child and is compulsory heir on the same terms as a biological parent; but an adoptive parent does not inherit property acquired by an adopted child free of charge from the biological family or property which an adopted child has received free of charge from the adoptive family. Adoptive parents exclude biological parents with respect to other property".

> "Article 334. An adopted child and his descendants are heirs by proxy of the ascendant relatives of the adoptive parents but not compulsory heirs. The descendants of an adopted child are heirs by proxy of an adoptive parent and also compulsory heirs".

298. Simple adoption may be revoked on the following grounds:

(a) Disqualification of the adopted child or adoptive parent in the cases established in this Code which prevent succession;

(b) Denial of maintenance without justified cause;

(c) Justified petition by an adopted child who is of age;

(d) By legally certified agreement of the parties, when the adopted child is of age.

From the moment it is declared by a court such revocation extinguishes all the future effects of the adoption (art. 335).

299. Following simple adoption the adopted child may be recognized by the biological parents and may institute filiation proceedings. Neither of these situations alters the effects of the adoption established in article 331 (art. 336).

300. Nullification and registration of adoptions: according to article 337,

> "(1) An adoption shall be subject to absolute nullity if obtained in violation of the rules on: (a) the age of the adopted child; (b) the age difference between the adopted child and the adoptive parent; (c) adoptions involving a necessary prior unlawful act, including the presumed or apparent abandonment of the child deriving from the commission of an offence of which the child and/or his parents were the victims; (d) simultaneous adoption by more than one person except when the adoptive parents are married to each other; (e) the adoption of descendant relatives; or (f) adoption of a half-brother or half-sister by a sibling;
>
> (2) An adoption shall be subject to relative nullity if obtained in violation of the rules on: (a) the minimum age of the adoptive parent; or (b) defects connected with consent.

301. The effects of adoptions granted abroad:

> "Article 339. If the adoption was granted abroad, the legal situation between an adopted child and an adoptive parent and their rights and duties shall be governed by the law of the child's domicile at the time of the adoption".
>
> "Article 340. An adoption granted abroad in accordance with the law of the child's domicile may acquire the status of full adoption provided that the requirements of this Code are satisfied and both the child and the adoptive parent authorize and consent to such status. If the child is under-age, the Government Procurator for Minors must act in the proceedings".

302. In accordance with the reservation entered to article 11 of the Convention, subparagraphs (b), (c), (d) and (e) of that article do not apply in areas within the jurisdiction of the Republic of Argentina because before they can be applied a strict mechanism must exist for the legal protection of children in matters of intercountry adoption, in order to prevent trafficking in and the sale of children.

Province of Tierra del Fuego, the Antarctic and the South Atlantic Islands

303. The province is operating an adoptions programme. In accordance with a decision of its Supreme Court, the register of prospective adoptive families and the expert assessment of persons wishing to be included in the register are the responsibility of the technical/administrative agency - the province's Office for Children and the Family. Each department maintains a register of its own, and a register covering the whole province is currently under preparation. The province has a demand for

children for adoption. Support mechanisms for health, employment and housing, etc., are in place to avoid the rupture of the mother/child bond. The province has a total of 63 families registered; they are attended to in the order of their application.

Intercountry adoption

304. The first step is to determine when an adoption should be regarded as "intercountry"; this report will use definitions taken from the international instruments on intercountry adoption, even if Argentina is not a party to them: The Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993 and the Inter-American Convention on Conflict of Laws concerning the Adoption of Minors of 1984.

305. These two instruments contain similar definitions of adoption. Although the Hague Convention deals mainly with procedural questions and the Inter-American Convention mainly with aspects of substantive law, it is apparent from both of them that intercountry adoption requires that the adoptive parent or parents should have their habitual domicile or residence in one State party and the child to be adopted should have its habitual residence in another State party.

Possibility of intercountry adoption under current legislation

306. On the basis of this definition of intercountry adoption it can be concluded that Argentina's current adoptions legislation (Act No. 24.779), which requires an adoptive parent to have resided permanently in the country for five years before submitting the application for custody, totally excludes the intercountry adoption of children domiciled in Argentina, for Argentine legislation (art. 321 (a)) would apply in such cases, and the adoptive parents would have to prove permanent residence in Argentina.

307. It must be pointed out that Argentina's legislation does not pronounce against intercountry adoptions granted under the law of another country.

308. Chapter V of the Adoptions Act addresses the effects of adoptions granted abroad and provides that they shall be governed by the law of the child's domicile.

309. This makes it clear that Argentina's legal system respects other national systems, which are often based on social situations completely different from Argentina's and may regulate adoptions differently from Argentina; Argentine law establishes the procedure for recognizing the effects of such adoptions in Argentina.

310. Furthermore, the provision contained in article 321 (a), which stipulates that adoption proceedings must take place before a court at the child's place of domicile or the place where custody was granted, gives rise to the hypothetical case of the intercountry adoption of a child domiciled abroad adopted by an adoptive parent domiciled in Argentina.

Reasons for Argentina's reservation in respect of subparagraphs (b), (c), (d) and (e) of the Convention

311. At the time of the adoption of Act No. 23.849 the National Congress stated that these subparagraphs would not apply in Argentina because before they can be applied a strict mechanism must exist for the legal protection of children in matters of intercountry adoption, in order to prevent trafficking in and the sale of children.

312. These reasons why Argentina still maintains this reservation must be explained more fully. There are two basic reasons:

1. To prevent trafficking in children

313. There is no doubt that many cases of unlawful adoption have occurred under the guise of intercountry adoption in violation of the rights of the child and constituting criminal acts of trafficking in children.

314. Of interest here is a study entitled "Sale of and trafficking in children in Argentina" produced in 1989 by Defence for Children International and the Secretariat for Human Development and the Family of the Ministry of Health and Social Welfare, in which the 283 interviews led to a number of conclusions; attention is drawn to the following ones:

- It is possible speak of a "national market" in Argentina because children are bought and sold. The 134 known cases which emerged from the 283 interviews held in various sectors indicate knowledge, in most cases direct knowledge, of 49 cases of the sale of children, together with 15 explicit offers made to professionals, married couples wishing to adopt, and poor mothers to exchange a child for money, or in the case of adoptive parents of to exchange money for a child.

- The following points emerged about the international market: (a) "How hypocritical are Argentinians, who refuse to regularize the emigration of children but tolerate the clandestine transfer of thousands of Argentine children to Europe" (comment made by an Italian judge to Dr. Atilio Alvarez, consultant in civil juvenile justice (12th Congress of Juvenile Magistrates of the Inter-American Association of Juvenile Magistrates, Rio de Janeiro, August 1986); (b) A book entitled "How to Adopt from Latin America" (Dillon Press, Minnesota, USA, 1981) recommends anyone wishing to adopt a white child "to go to Chile, Costa Rica or Argentina"; (c) "In Argentina, where 90% of the population is descended from Europeans, there is an especially strong demand for blue-eyed blond-haired children, whose price can be as high as 20,000 dollars" (Newsweek, 6 June 1987).

- Although Argentina, unlike the rest of Latin America, has many families on the waiting list to adopt, traffickers transfer children whom they cannot place in Argentina to other countries, where the profits are higher.

- The study verified 15 specific allegations of the sale of or trafficking in children to foreign countries; in 10 cases there was evidence of payments for babies ranging between 500 and 2,000 dollars.

- It was concluded from the interviews with persons at risk of giving up their children that surrender or sale were due less to the existence of a supply from such persons than to the pressure of the demand.

315. The judicial authorities are investigating a number of reports of clandestine intercountry adoptions, alteration of children's identities, and mothers who have sold their children; these cases have not yet been cleared up (sometimes owing to the lack of effective international judicial cooperation on the part of some countries).

316. Also under investigation are cases in which newborn Argentine babies were registered in the Civil Register as children of foreign parents, at the instigation of an organization seeking mothers

willing to sell their children, and in which foreign families were willing to register the babies as their own.

317. There have been cases in which a foreign woman would enter Argentina for a week and give birth in that very same week, then return home with a supposedly newborn baby.

318. It is clear from the foregoing that trafficking in children is a fact in Argentina and that this trafficking would be increased by legalization of the intercountry adoption of children domiciled or resident in Argentina, for such a move would add to the national demand the demand from abroad which brings very strong economic pressure to bear on the various sectors involved in adoption proceedings.

2. Argentina's social reality

319. Surveys reveal more prospective adoptive parents than children available for adoption. For example, in the Federal Capital in 1998 300 families were approved by the National Council for Children and the Family as prospective adoptive parents, and 80 children were given in adoption. The ratio is not the same in the provinces, but on average there are far more prospective adoptive families than children available for adoption.

320. Given this actual situation, it would be unwise to seek in intercountry adoption a means of protecting children habitually domiciled or resident in Argentina.

Legal safeguards of the interests of children introduced by Argentina to ensure adoption in accordance with the principles of the Convention

321. There follows an account of the commitments in respect of adoption undertaken by Argentina when it approved the Convention, including the manner in which Argentina has fulfilled these commitments.

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration (art 3, para. 1)

322. Argentina's legislation, jurisprudence and doctrine are consistent in emphasizing the best interests of the child as a guiding principle of all actions concerning children which takes precedence in any adoption procedure.

2. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference (art. 8, para. 1)

323. Article 321 (h) of the Adoptions Act establishes the obligation of adoptive parents to inform the adopted child about his biological origins. Where nationality is concerned, it should be made clear that the legislation does not entail a change of the child's nationality, for Argentine nationality is acquired by *jus soli*, except in the cases envisaged in the Citizenship Act (No. 346; Decree No. 231/95), which allows the children born abroad to Argentine nationals to take their parents' nationality (this possibility is not automatic but optional).

324. The right to an identity includes the child's culture and language, and Argentina tries to ensure that abandoned children are adopted by parents living in the same region as the child, in order not to alter its cultural environment. Since prospective adoptive parents outnumber children available for

adoption, the delivery of children domiciled or resident in Argentina for adoption by a family living abroad would impair the right to an identity; Argentina is justified on this ground in maintaining its reservation to the Convention.

325. That same objective is achieved by means of the requirement included in the new Adoptions Act (No. 24.779) that all adoptive parents must reside for five years in Argentina before they may apply for custody of a child, for the adoptive parents will necessarily have had to reside in the same country as the child to be adopted.

326. It should be pointed out that the situations which arose under the former legislation, when a potential adoptive couple would enter Argentina for a couple of weeks and then leave with an Argentine child in their custody, could not occur under the new Act (in force since 9 April 1997) because of the five years' residence requirement.

> 3. Where a child is legally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to speedily re-establishing his or her identity (art. 8, para. 2)

327. The justice system has dealt with a number of reports of clandestine intercountry adoption, alteration of children's identity, and mothers who have sold their children; it is investigating other such reports.

> 4. [States Parties shall] ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary (art. 21, para. (a))

328. With regard to this article's reference to competent authorities, it has been established that only the courts are competent to grant adoptions, the procedure being supported by all the guarantees of due process. The wording of the new Act means that the adoption of children domiciled in Argentina is decided by local courts applying Argentine law (adoptive parents and children candidates for adoption must have the same residence); this arrangement has obvious advantages: (1) the advantage of a local court, for the domestic courts will be in a better position to decide where the child's best interests lie: thanks to the requirement that prospective adoptive parents must be resident in Argentina a local court is able to make direct contact with both the parties and familiarize itself with their social backgrounds, which makes it easier to obtain and weigh any evidence needed; (2) the advantage of the application of Argentine law by Argentine courts.

329. The new Act provides for the creation of a national register of prospective adoptive parents as a means of ensuring that the judicial machinery will be able to satisfy the wishes of such parents more quickly. It may thus be argued that if legal adoption becomes a flexible path for adoptive parents to take in the future, it will be helping to achieve the purpose of the Act, for adoptive parents will choose such a lawful path; in other words, the Act will also have an instructive function.

5. States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form (art. 35)

330. The measures taken against the intercountry adoption of children resident in Argentina will help to prevent trafficking in children under the cloak of intercountry adoption by removing the pressure of the overseas demand for children.

331. Attention is drawn to the Inter-American Convention on International Traffic in Minors, which is not yet in force in Argentina although the Executive has completed the procedures for its ratification and it has been submitted to the National Congress for approval.

332. At present, the maintenance of the reservation to the Convention on the Rights of the Child and the non-ratification of international instruments on adoption are positions taken by Argentina in order to comply effectively with the principles of the Convention and protect children's best interests and their right to an identity, which is the most important right after the intrinsic rights to life and physical integrity.

333. This opposition to the transfer of children abroad is not the result of an arbitrary decision but of one taken out of respect for children's cultural and social dimensions, for they have a right to their own culture even if they have lost their family.

334. Nevertheless, Argentina believes that the protection of children by the international institutions having responsibility for children must be strengthened; to this end it must be understood that the structure of these institutions needs to be reorganized and that they should be run by specialists in children's affairs.

335. Intercountry adoption should be a possibility only when the country of origin has no persons wishing to adopt.

Article 22. Refugee children

336. Argentina's legislation makes no age distinction with respect to asylum-seekers. This is basically because the 1951 Convention and the 1967 Protocol do not envisage any special treatment for children.

337. In principle, all minors, whether accompanied or not, are entitled to request asylum. In fact, since the creation of the Committee on Eligibility for Refugee Status in 1985, there have been at least four applications by unaccompanied minors, three of which were approved and one rejected on the basis of an examination of the grounds. None of this is prejudicial to the application, where necessary, of special rules on minors.

338. The authorities rejected this one application by an unaccompanied minor because it had been lodged by a minor who declared that he had been recognized as a refugee by the Government of Brazil. Once the necessary consultations had taken place, the decision to reject was confirmed even though the child remains in Argentina because expulsion is not considered appropriate in the light of the principle of the protection of the child.

339. The right to petition for refugee status includes all the usual procedural stages: application, right to make and to amplify a statement, right to appeal in the event of rejection in the first instance, and recourse to judicial proceedings. Special account is taken of the child's age in all proceedings, in order to prevent them having a traumatic or other undesirable effect.

340. The right also includes all the gender-based procedures; applicants are interviewed by persons of the same sex, and in the case of refugee girls special inquiries are made into the situation of women in the country of origin.

341. Again in the case of girls, more than usual weight is attached to the objective analysis of the situation in their country of origin and the situation of their direct family members and/or closest relatives.

342. Children who apply to the Committee on Eligibility for Refugee Status are considered individually and in person in the light of the degree of fear shown when they appear, in company of their parents, tutors or other persons legally responsible for them, and particular account is taken of their vulnerability.

343. If a child's application is based on its relationship to an adult applicant, the granting of asylum depends on the outcome of the adult's application and it is considered from the standpoint of family reunification in the light of the principle of family unity; if the adult's application is accepted, the child is awarded the same refugee status.

344. It should also be pointed out that all foreigners recognized as refugees acquire the same rights and obligations in Argentine territory, without distinction as to sex, age or the grounds for their recognition, and that the age limitations contained in general legislation apply to them.

345. The State, acting through the competent authorities, assumes the duty of protecting the interests of unaccompanied minors, and appoints an adult to take responsibility for such minors when appropriate.

Article 23. Children with different capacities

346. Notwithstanding any special measures adopted for the disabled, it may be noted that, as far as minors with physical or mental disabilities are concerned, Argentina has brought its legislation into line with the Declaration on the Rights of Mentally Retarded Persons and the Declaration on the Rights of Disabled Persons, which were proclaimed by the United Nations in 1971 and 1975 respectively. The relevant legislation in this regard is Act No. 22.431 on comprehensive protection for persons with disabilities, which reads in part:

> "Article 1. This Act institutes a system of comprehensive protection for persons with disabilities, aimed at providing them with medical care, education and social security, granting them the exemptions and incentives that will enable them, insofar as possible, to overcome the handicap caused by their disability and giving them the opportunity, by their own efforts, to play a role in the community equivalent to that of ordinary individuals".
>
> "Article 2. For the purposes of this Act, a disabled person is any person suffering from a long-term physical or mental functional impairment which, having regard to his age and social environment, gives rise to considerable problems as far as integration into the family, society, education and work is concerned".
>
> "Article 4. Through its agencies, the State shall provided the following services to disabled persons to the extent that they themselves, the persons on whom they are dependent and the welfare bodies to which they belong are unable to do so: (1) comprehensive rehabilitation, understood as the development of the abilities of disabled persons; (2) occupational or vocational training; (3) loans and grants to facilitate professional or intellectual activity; (4) special social security schemes; (5) education in ordinary establishments, with the necessary assistance

provided free of charge, or in special establishments when the degree of disability makes attendance at an ordinary school impossible; (6) individual, family and social guidance and advancement".

"Article 14 bis Allowances for primary, secondary and higher education and maintenance grants shall be doubled if a worker has a dependent child of any age who is disabled and attends a public or private establishment under the supervision of the competent authority in which ordinary or special education is provided.

For the purpose of this Act, regular attendance by a worker's dependent disabled child at a public or private establishment under the supervision of the competent authority and providing exclusively rehabilitational services shall be regarded as regular attendance at an establishment providing primary education".

347. Decree No. 762/97 created the system of basic allowances for disabled persons.

348. Act No. 24.901 created the system of basic allowances for the comprehensive treatment and rehabilitation of disabled persons.

349. Telecommunications: Acts Nos. 24.204 (1993) and 24.421 (1995) stipulate that telephone companies must provide a public telephone service for deaf persons and persons with speech impediments.

350. The Federal Disability Council was established by Act No. 24.657 (1996).

351. Cinematography: Resolution No. 1168/97 provides that all feature films produced in Argentina must be subtitled in the national language so that persons with hearing disabilities may watch them.

352. By Resolution No. 1656/97 the Secretariat for Culture created the programme "Let's integrate through culture", the aims of which are to provide access for the disabled to cultural activities and to capitalize on and disseminate their experience, knowledge and learning as makers of culture. In addition, Resolution No. 1700/97 exempts disabled persons from payment of any admission charges to concerts, shows, exhibitions and all other events organized by the Secretariat.

353. By Resolution No. 67/98 the Secretariat for the Civil Service created the system for monitoring the application of article 8 of Act No. 22.431 on compliance with the allocation of a percentage of posts to disabled persons who satisfy the job description (the State must recruit a minimum of four per cent of its total workforce on these terms).

354. All the information provided on this point is without prejudice to any enabling acts adopted by the provinces and specific legislation on disability, including:

- Act No. 10.315 on grants for out-patient treatment in psychiatric institutes;
- Act No. 10.205 on welfare benefits;
- Act No. 11.134 on priority for the purchase of protected workshops and State cooperation;
- Act No. 10.836 on transport for disabled persons travelling with a companion;
- Act No. 10.592 on the basic and comprehensive legal regime for the disabled.

National Advisory Committee for the Integration of Disabled Persons (Office of the President)

355. Act No. 24.657, which was adopted on 5 June 1996 and promulgated on 5 July 1996, established the Federal Disability Council with the status of a State Secretariat. It is headed by the Chairman of the National Advisory Committee and is made up of permanent members: the chief officials responsible for disability at the national and provincial levels and of Buenos Aires City, representatives of non-governmental and disabled-persons organizations, appointed in an advisory capacity, and invited members. It has the following functions under article 3 of the Act:

(a) To assess problems common to disabled persons throughout Argentina and the specific problems of each region and province;

(b) To identify the causes of such problems and analyze the measures taken to deal with them in order to determine whether the measures should be approved or changed;

(c) To recommend courses of action for the organization of sectoral policies of national scope;

(d) To promote periodic national congresses on disability, organized by the Council;

(e) To undertake activities and projects to meet the objectives listed in article 2 of the Act;

(f) To coordinate the discussion of topics of common interest with the Federal Health Council, the National Council for Children and the Family, the Federal Housing Council and other similar bodies;

(g) To assess the results of the implementation of the proposed policies and measures.

356. Decree No. 1027/94 establishes inter alia the functions of the National Advisory Committee with regard to vocational training and employment, publicity campaigns, rights, publicizing of rights, services, national disability data bank, legal services, culture, universities and sports.

Autonomous City of Buenos Aires

357. The City's Constitution states:

> "Chapter 13: persons with special needs.
>
> Article 42. The City accords to persons with special needs the rights to full integration, information and equality of opportunities.
>
> It shall carry out policies for promotion and comprehensive protection connected with prevention, rehabilitation, training, education and integration in society and employment.
>
> It shall provide for the development of an environment free of natural, cultural, linguistic, communication, social, educational, architectural, urban-layout and transport obstacles, and of obstacles of any other kind, as well as for the removal of the existing ones".

Article 24. Health, treatment and rehabilitation

358. The following points may be made in addition to the information given in connection with article 6 of the Convention.

Province of Chubut

359. In the context of the restructuring of the areas falling within the scope of the health and welfare card, attention is drawn to the creation by Act No. 4.160 on the Social Assistance Institute (Provincial Lottery).

360. The province also adopted Act No. 4.249 on the provincial health system, which provides for the restoration of the Executive's authority for the formulation of health policy, and for the creation of a Management Board made up of representatives of the various health agencies, which will be responsible for implementing such policy.

361. In accordance with the purposes and powers assigned to the Board, it must harmonize supply and demand with regard to community needs and the system's response capacity. The representation of the health agencies on the Board ensures equity in the distribution of the resources and the rational implementation of health policy and that the measures will satisfy the differing needs in the region and deliver equality of access for the whole population.

362. Act No. 4.262 created the province's Executive Unit for Social Prevention, which provides scientific, professional and technical support for the other agencies of the Ministry of Health and Social Welfare.

363. Lastly, work has been done in this context on governmental action to affirm the family in its broadest sense as the natural setting for the protection of all children. This is the basis for the formulation of responses for children with problems in terms of support, care and protection for the family in a community context.

364. The implementation of these responses is no simple matter, especially when it comes to enhancing grass-roots awareness of this approach, which seeks to avoid the old remedy of placing children in institutions.

365. Accordingly, the provincial State has a dual responsibility in this regard, for in addition to promoting measures targeted on the various problems it must also envisage global measures designed fundamentally to secure grass-roots awareness of and a specific commitment to children.

366. The provincial health system also has a Maternity and Children's Department.

367. Since 1993 this Department has been operating the mother and child care programme, which is responsible for an array of measures for the protection of the health of mothers and children.

368. In this connection Chubut has introduced the perinatal clinic form of the Perinatal Information System (CLAP-WHO/PAHO).

369. In addition, under an agreement with the Ministry of Health and Social Welfare it has initiated in the province the Nutrition Programme for Mothers and Children (PROMIN).

370. This programme is fully operational in the town of Puerto Madryn, and preparations are under way for its introduction next year in the municipalities of the north-west area.

371. Facilities for the treatment of adolescents have been established in the hospitals, for example the Dr. Pozzi Integrated Adolescent Health Centre in Andrés Isola Hospital in Puerto Madryn itself. There are also adolescent health teams in the Trelew, Esquel and Comodoro Rivadavia Hospitals.

372. The CLAP Adolescent Information System is also being introduced.

Province of Santa Fe

373. The provincial maternal and child health programmes are part of the overall system of Health Ministry activities and include health monitoring measures.

374. The coordinators of these programmes have studied the strategies available at the local, national and international levels for dealing effectively with the population's health problems.

375. The following are the province's priority health programmes:

- Perinatology: the principal objective is to reduce maternal and perinatal mortality and morbidity associated with pregnancy, delivery and puerperal problems;

- Vaccination: the aim is the total prevention of deaths from diseases preventable by vaccination and to reduce the morbidity associated with these diseases;

- Growth and nutrition: the aim is to reduce mortality caused by or associated with malnutrition and to improve the quality of the treatment of nutritional problems;

- Acute respiratory infections: the 1990 mortality rate for pneumonia and sepsis among under-fives was 47.75 per 100,000; this programme is therefore designed to reduce this rate to 43 per 100,000 by 2000;

- Diarrhoeal diseases: this programme's objective is to reduce mortality and morbidity caused by diarrhoeal diseases and to correct the improper use of antibiotics and other medicines in the management of these diseases;

- Sexually transmitted diseases and AIDS: the aim is to improve the quality of the treatment of STD and AIDS and to reduce the associated mortality;

- Oral health: this programme seeks to reduce the number of children in the second grade of primary education requiring extractions or fillings and the incidence of gum disease among children entering secondary school by 30% of the 1995 levels by 2000.

Article 25. Periodic review of placement

Province of Buenos Aires

376. Programmes have been introduced for the supervision and monitoring of the administration of institutions, both the public ones and those operated by accredited NGOs. These programmes guarantee the quality of the services and the protection of the children living in the institutions.

377. The province's Council for Children and the Family has established a minimum standard of quarterly checks. The nature of these checks depends on the characteristics of the programme in

question; they are carried out by the central supervisory units through the Council's departmental offices. The methods used are designed individually for each programme.

Province of Chaco

378. In 1997 surveys were carried out under the "Porvenir" and "Volver a Casa" subprogrammes to determine the total number of children being cared for in this mode and their length of stay in the institutions, to evaluate the feasibility of returning them to their homes, and to approach the management boards with a view to such action in deserving cases. Periodic checks are made on the institutions in order to monitor and assess the work done with the children.

379. The "Volver a Casa" subprogramme constantly monitors family situations by means of documentary sources, key informants, and home visits. The findings of the checks are communicated to the Government Procurator for updating of the records and consideration of the possibility of releasing the children. The parents are interviewed in cases holding out the possibility of release.

380. The subprogrammes also promote the children's social reintegration under the auspices of the institutions by improving the social and environmental conditions and developing their abilities.

Province of Formosa

381. The province's Social Institutions Office has four homes providing permanent care for children deprived of their family environment. The children are separated by sex and into 5-12 and 13-18 age groups. They are placed in the homes on a temporary basis pending the correction of the causes of the need for placement. The homes provide protection and support and meet the children's basic needs; there is a limit of 30 children per institution. The children attend infant, primary and secondary schools. The homes also have a team of professionals made up of psychologists, educational psychologists, social workers and a woman doctor, who collaborate in the treatment and monitoring of the children and their families. If necessary, these professionals have recourse to the specialist services of the Central Hospital and/or De la Madre and El Niño Hospitals in the town of Formosa.

Article 26. Social security

382. As stated in Argentina's second periodic report under the International Covenant on Economic, Social and Cultural Rights (E/1990/6/Add.16), Argentina's Single Social Security System provides for old age, disability, survivors', industrial accident and unemployment benefits and family allowances. The social insurance subsystem is funded primarily by contributions and charges (11 and 16% respectively) and by tax revenues (see annexes 32 to 34).

Year	*Contributions and charges (%)*	*Funds (%)*	*Others (%)*
1993	63.7	29.2	7.1
1994	63.1	33.9	3.0
1995	62.4	35.9	1.7

Source: Ministry of Labour and Social Security.

Social insurance: average pension scheme assets

383. The average assets of the social insurance system increased by 8.4% between 1993 and 1995. The figures for social security expenditure as a percentage of gross domestic product are given below on the basis of the information prepared by the Ministry of Labour and Social Security.

Year	*Percentage*
1993	7.0
1994	7.0
1995	6.7

384. According to the Ministry, the share of social security expenditure in total expenditure in the public sector was as follows. In 1985, 17.1% of this expenditure was destined for social security. As can be seen, a rise occurred, owing mainly to two factors: an increase in the number of beneficiaries from 2,743,000 in December 1985 to 3,261,000 in July 1995; and the recognition by the State of the debts built up during the years when the guidelines for indexation of incomes laid down in the applicable legislation were not respected, as adjustment mechanisms were used which tied the total payments to available resources.

385. There are population groups for which participation in the social insurance system is difficult: marginal groups with low incomes, poor levels of education and little integration with the rest of society because they live in extremely poor urban areas (slums) or in rural areas (small farmers, smallholders, labourers without permanent jobs, etc.).

386. In order to provide assistance and redistribute income, the State instituted what are known as discretionary or non-contributory benefits. These are old age or disability allowances designed to help the worst off and covering persons in a situation of relative poverty who have not made the contributions needed to give rise to an ordinary pension.

387. Since 1991 another vulnerable group has also benefited from protection - mothers with seven or more children. It should be noted that unmet demand for this type of allowance is substantial and there is every reason to think that the number of cases handled will continue to rise in the future (see annex 35, Public expenditure on social security as a percentage of GDP; annex 36, Share of social security expenditure in total public expenditure; annex 37, Share of public social expenditure in total public expenditure; and annex 38, Public social expenditure as a percentage of GDP).

Non-contributory pensions and allowances: number paid
(figures for December of each year)

Year	*Old age and disability pensions*	*Allowances for mothers with seven or more children*
1993	99,377	13,879
1994	112,785	24,535

Source: National Social Security Administration.

388. Women enjoy the same welfare treatment under the law as men, although ordinary pensions are payable to women five years earlier, at age 60 instead of age 65.

Non-contributory pensions and allowances: total annual disbursements (pesos) and population totals

Total population	32,615,528
Men	15,937,980
Women	16,677,548
Total population aged over 60/65	5,410,807
Women aged over 60	4,198,148
Men aged over 65	1,212,659

Source: Data from the 1990 population census supplied by INDEC.

389. The total of 3,261,000 persons covered by the national social insurance system and the estimated 600,000 covered by the provincial social insurance systems produce a total number of beneficiaries of 3,861,000 - 71.4% of the population of the entire country aged over 60/65 covered by the system.

390. Some ot the work being done on issues within the competence of the Ministry's Social Security Secretariat is concerned with the drafting of bills to ensure better coverage of the sectors involved, including:

Special social insurance schemes

391. Article 157 of Act No. 24.241 on the Integrated Pensions System, which has been in force since October 1993, authorizes the Executive to propose a list of occupations meriting special legislative treatment because they involve risks for workers or premature exhaustion of their capacity to work or because they constitute special situations.

392. An analysis was made of the current special schemes, and a list was prepared of occupations which should continue to enjoy special social insurance treatment in view of their nature and the circumstances in which they are pursued. Particular importance is attached to heavy labour, work performed in special conditions of isolation from the workers' families or society, and work involving specially arduous, toxic, hazardous or unhealthy conditions. Attention is drawn in particular to work in mining, slaughtering and butchering of animals, oil and gas exploration, steelmaking, foundry work and forging, and waste collection in the Antarctic or the South Atlantic Islands, etc.

Blind and disabled persons

393. These persons also receive special treatment because of their special circumstances, in acknowledgement of the fact that they have to make a greater effort to perform certain tasks than the able-bodied. Consequently, an effort is made to compensate them by modifying the age requirements and number of years of service needed to receive social insurance benefits.

Domestic servants and rural workers

394. In order to extend the protection afforded by the social insurance system to a larger number of persons, an effort is being made to analyze the specific characteristics of certain groups of workers who, though referred to in the legislation, are for the most part not in fact included in the social insurance system as contributors. This applies to domestic workers or domestic servants - 98% of whom are women - and rural workers.

395. They generally have low incomes and very little job stability, so that it is no simple matter to devise appropriate machinery to encourage them to make regular contributions in order to enjoy the future benefits of social security.

396. Act No. 24,463 was adopted in April 1996; in chapter I it introduced inter alia amendments to the social security legislation. The following changes were made:

(i) National public social insurance schemes provide redistributive benefits in accordance with the solidarity principle;

(ii) The State guarantees the award and payment of benefits up to the amount of the budget appropriations expressly earmarked for this purpose by the Budget Act. The annual appropriations for funding the public welfare system may not be lower than the appropriations under the previous year's budget;

(iii) The Budget Act determines the minimum and maximum levels of benefits payable under the public social insurance system, and no beneficiary may receive benefits in excess of the legally established maximum;

(iv) Benefits are indexed at a rate determined annually in the Budget Act in the light of the calculation of the resources available. They may be distributed in a differentiated manner in order to raise the minimum levels of benefit;

(v) Persons in receipt of benefits may resume paid work in either an employed or a self-employed capacity.

397. Chapter II of the Act provides for reform of the legal aspects of social security. This reform regulates legal challenges to action taken by the National Social Security Administration:

(a) The Administration's decisions can be challenged in the federal administrative courts in Buenos Aires and in the provincial courts. The Administration is the defendant and the courts are authorized to hear such cases without the need for an application to the court in whose jurisdiction the head office of the Administration is located;

(b) The Administration may cite in its defence insufficiency of funds under the distribution arrangements to cover the additional expenditure which acceptance of the claim would entail;

(c) The National Social Security Court of Appeal established by Act No. 23.473 becomes the Federal Social Security Court. It hears appeals against judgements of the courts mentioned above, as well as dealing with other matters;

(d) Final judgements of the Federal Court are subject to appeal before the Supreme Court by ordinary administrative remedy, and the decisions of the Supreme Court are binding on the lower courts;

(e) Coercive judgements against the Administration must be enforced within 90 days of their notification, up to the point where the budgetary resources allocated for that purpose for the fiscal year in which that time limit expires are exhausted. Once these resources are exhausted, enforcement is suspended until the beginning of the fiscal year for which fresh budgetary resources to fund enforcement of court decisions are approved.

398. See the tables in the annexes: (1) Beneficiaries disaggregated by sex; (2) Beneficiaries disaggregated by nationality; and (3) Beneficiaries disaggregated by age group.

Article 27. Standard of living adequate for physical, mental, spiritual, moral and social development

The right to adequate maintenance

399. The State has introduced a number of programmes to improve the food supply and diet of the most disadvantaged population groups. The following programmes are in operation:

1. Community social policies (PROSOCO)

Lead agencies: Secretariat for Social Development and provincial governments;

Executing agencies: provincial social welfare ministries, municipalities and NGOs;

Aims: to improve the quality of life throughout Argentina for population groups with unsatisfied basic needs;

Goods and/or services provided: food supplements in community canteens for children. Other non-food social benefits;

Target population: poor children aged two to five;

Location: the whole country;

Information in the provinces: Secretariats for Social Development and Human Development, and provincial ministries of health and welfare.

2. Food and nutrition programme for children (PRANI)

Lead agency: Secretariat for Social Development;

Executing agencies: Under-Secretariat for Social Policies, PRANI executing unit;

Aims: to improve living conditions and access to suitable and sufficient food for children from disadvantaged homes by providing food supplements and support for basic education. To analyze and reorganize the system of school and children's canteens;

Goods and/or services provided: equipment, infrastructure, technical assistance and training for school and children's canteen programmes. PRANI diet supplement (a monthly food parcel containing nine foods);

Target population: children aged two to 14 suffering from nutritional deficiency;

Location: the whole country, with the exception of Buenos Aires province and the Federal Capital;

Information in the provinces: Secretariats for Social Development and Human Development, provincial ministries of health and welfare and the provincial coordination and liaison unit.

3. Vegetable garden programmes (PROHUERTA)

Lead agencies: Secretariat for Social Development, Secretariat for Agriculture, Fisheries and Food;

Executing agency: National Institute of Agricultural Technology (INTA);

Aims: To encourage grass-roots participation in the production of food. To improve the quality of the diet. To supplement the food supply by means of own-production. To increase overall expenditure on food. To encourage small-scale production alternatives. To develop appropriate technologies for food production;

Goods and/or services provided: technical assistance, training and provision of key inputs for community, school and family vegetable gardens;

Target population: the rural and urban population with unsatisfied basic needs;

Location: the whole country;

Information in the provinces: INTA agencies.

4. Nutritional subprogramme for mothers and children

Lead agencies: Ministry of Health and Social Welfare. Office for Maternal and Child Health;

Executing agencies: provincial ministries of health;

Aims: to reduce infant mortality caused by undernourishment of mother and child;

Goods and/or services provided: ordinary and fortified powdered milk; promotion of breastfeeding; food education; monitoring of the nutrition status of women and children;

Target population: pregnant women, and children aged from birth to two years who are socially or biologically at risk;

Location: the whole country;

Information in the provinces: hospitals and health centres.

5. Social nutritional programme (PROSONU)

Lead agencies: Secretariat for Social Development. Provincial governments;

Executing agencies: provincial ministries of social welfare, municipalities and NGOs;

Aims: to improve the nutritional status of the target population;

Goods and/or services provided: food supplements;

Target population: children aged six to 14 with unsatisfied basic needs, in school canteens. Children aged two to five with unsatisfied basic needs, in children's canteens;

Location: the whole country;

Information in the provinces: Secretariats for Social Welfare and Human Development and provincial ministries of health and welfare.

6. Nutrition programme for mothers and children (PROMIN)

Lead agencies: PROMIN coordination unit at the national level and provincial and municipal executing units;

Target population: women of childbearing age and children aged from birth to five years suffering from structural poverty;

Goods and/or services provided: extension, rebuilding and equipment of existing health centres, children's canteens and kindergartens; modification of health, early-learning and school-canteen models by means of comprehensive technical assistance, training and mass communication measures; provision of medicines and foods; national nutrition and health survey; impact assessment studies; social auditing, etc.;

Location: the whole country.

400. On 20 July 1992 the Executive introduced under Decree No. 1269/92 (see annex) a programme of substantive and promotional health policies and the National Plan of Action for Mothers and Children.

401. Since the end of 1993 infrastructure and equipment works have been carried out in 255 health centres and nine hospital obstetrics and neonatology units, which are transforming the model of primary health care for the target population under a programme covering more than 100,000 pregnant women and under-fives; the programme provides additional benefits such as food supplements for person diagnosed as malnourished, a milk ration, iron supplements, family food-supplement baskets, etc.

402. Infrastructure and equipment works have also been carried out in 262 day nurseries, canteens and kindergartens which, now transformed into child development centres, are making a contribution to an educational process designed to develop the child's personality, aptitudes and mental and physical abilities to the fullest possible extent.

403. In-service training was given to 6,700 professionals, technicians, administrators and auxiliaries working in the health and child development facilities mentioned above.

404. Mass communication and publicity campaigns were carried out to inform the community about health care and improvement, nutrition and child development.

Province of Chubut

Food and nutrition programme for children (PRANI)

405. PRANI is a national programme which the province is carrying out under a participation agreement (Provincial Act No. 4.195). Priority is being given among the proposed activities to the analysis and reformulation of the school and children's canteens programme, with a view to making optimum us of the earmarked funds allocated by the social nutrition programme (PROSONU), under joint participation arrangements, which the province uses for the operation of the canteens.

406. In the context of reformulation of this programme and of joint planning with the province, the national programme is funding investment projects on infrastructure, equipment, training and improved diet.

407. The programme includes a "PRANI supplement" subprogramme consisting of the supply of a food basket every month for children in the 2-5 age group attending the children's canteens.

408. The province has 22,285 children with unsatisfied basic needs in the 0-6 age group, according to the 1994 figures of the National Office for Mothers and Children.

409. PRANI has assigned this province a total quota of 3,500 food supplements, in addition to 1,100 delivered in the vicinity of Comodoro Rivadavia in direct implementation of the national programme in that town.

410. The localities in which the food supplement programme was to be implemented were determined by the national programme, but the failure to increase its quota has made it difficult for the province to cover other localities.

411. However, the PRANI RURAL programme submitted by the province was accepted by the national programme; at present it has a total coverage of 1,000 food supplements in all localities lacking children's canteens (see annex).

Projects submitted and executed

1. UCEP equipment project;
2. Training project for the personnel who carried out the survey for the analysis and reorganization of the school and children's canteens;
3. Diet supplement project: food supplements for high-risk families in the vicinity of Puerto Madryn;
4. Infrastructure project for the construction of a child care centre for 100 children in the vicinity of Comodoro Rivadavia;
5. Equipment project for 14 community canteens in the vicinity of Trelew.

Projects in execution

1. Diet supplement project for 63 children attending the Tecka community canteen;
2. Diet supplement project for 33 children attending the Bet-Ei de Río Mayo canteen;

3. Grass-roots outreach project;

4. Training project on child development, nutrition and organization of local executing units: indirect beneficiaries;

5. Diet supplement project for 130 children attending the school canteen of school No. 68 (Gobernador Costa) during the holidays;

6. Equipment project for school No. 51 in Río Pico.

Projects submitted in the hope of budgetary support

1. Child care centre for 100 beneficiaries in Absalo district, Comodoro Rivadavia;

2. Rawson child care centre for 100 beneficiaries. Christian and Missionary Movement;

3. Diet supplement project for the canteen of school No. 129 (Dos Lagunas in Epulef village). Seventy beneficiaries;

4. Diet supplement project for 100 children attending the Trevelín community canteen;

5. Diet supplement project for 120 children attending the Rawson community canteens.

PROSONU school and children's canteens subprogramme

General aim

412. To improve the nutrition of children of school age, mainly children from poor families, reaching the families by means of promotional measures for a better quality of life.

Specific aims

Nutritional:

To supplement children's home diet;

To encourage the acquisition of new eating habits;

To contribute to children's normal mental and physical development.

School and educational:

To improve performances at school;

To reduce the drop-out, absenteeism and failure rates;

To incorporate in curricula items connected with food and nutrition.

Social:

To provide training and counselling for families for the acquisition of appropriate eating habits as a means of preventing malnutrition;

To promote programmes on alternative sources of income and to achieve multiplier effects from school to home.

Target population

The programme is aimed at all children in the 5-14 age group attending school and belonging to families with unsatisfied basic needs.

Selection criteria

The criteria vary from area to area according to the characteristics of the population:

In rural areas, indigenous communities and frontier areas there is no selection because almost all the children lack an adequate diet; this situation is aggravated by other factors such as geographical remoteness and the high cost of food;

In urban and suburban areas the health authorities check the children's nutrition, growth and development to determine the programme's participants.

Planned coverage

1,646 full diet supplements for children in boarding establishments;

11,400 daily lunches for children in full-time attendance at school;

10,000 full breakfasts;

3,473 simple breakfasts for children in part-time attendance.

Mode of execution

The programme operates for the 10 months of the school year.

Types of assistance:

All meals in boarding establishments;

Full lunches: in full-time schools having had an earlier breakfast supplement scheme;

Simple breakfast: in morning-only schools having had an earlier breakfast or snack scheme.

Nutritional targets

Full supplement: To provide a total of approximately 2,320 calories and a protein intake of 75 grams a day per ration;

Percentage coverage:

Carbohydrates - 60%;

Proteins - 14.5%;

Fats - 25.5%.

Full lunch:

Each lunch to provide a total of about 740 calories and a protein intake of 28 grams (62% of the recommended amount);

Percentage coverage:

Carbohydrates - 59.5%;

Proteins - 15.2%;

Fats - 25.3%.

Full breakfast:

Each breakfast to provide a total of approximately 375 calories;

Percentage coverage:

Carbohydrates - 54.3%;

Proteins - 8.5%;

Fats - 37.2%.

Simple breakfast:

To provide a total of about 348 calories per meal.

Right to decent housing

413. A number of national programmes have been implemented under the auspices of the Secretariat for Social Development and the Under-Secretariat for Housing, with a view to delivering the right to decent housing for as many people as possible:

Housing sector programmes

Programme	Lead agency	Implementing agency	Aims	Goods and/or services provided	Target population	Geographical location	Sources of information in the provinces
National Housing Fund	Secretariat for Social Development; Housing Unit	Provincial housing agencies	To reduce the housing deficit; to improve housing conditions	House building, extension and repair; equipment and infrastructure	Families with insufficient resources to buy a home on the housing market	Country-wide	Provincial housing agencies, provincial housing boards and committees
Land title programme	Secretariat for Social Development	Executing units of provincial housing agencies or ad hoc organizations	Transfer of public State-owned land occupied by settlements, and purchase of land in order to relocate families	Identification of informal settlements and formalization of ownership by transfer of title to physical persons	Groups in informal settlements	Buenos Aires, Chaco, San Juan, Santa Fé and Tucumán	
Housing Unit's housing programme	Secretariat for Social Development	Housing Unit	To help develop and improve living conditions, housing, basic social infrastructure and land access of households with basic unmet needs and vulnerable groups in situations of emergency, risk or marginalization	Access to basic housing; supplementary housing; improvement of living conditions for vulnerable groups; basic social infrastructure	Households with basic unmet needs and vulnerable groups	Provinces in the north-western and north- eastern regions	Municipalities, NGOs, dioceses, universities, provincial secretariats for social development
Neighbourhood improvement	Secretariat for Social Development	International financing unit	To improve living conditions for the urban population with basic unmet needs; to facilitate access to basic mains services with social monitoring to ensure the programme's sustainability and replicability	Strengthening of institutional structures: technical assistance and training; mains connections, including sewerage, inside the home; environmental monitoring; legal monitoring; social assistance	Urban population with unmet basic needs in areas with 20,000 inhabitants or more	Areas throughout the country with 20,000 inhabitants or more	
Flood Victims' Programme/ house repair subprogramme	Ministry of the Interior	Provincial governments	Reconstruction of areas affected by the 1992 flooding	Building and repair of dwellings affected by flooding	Families with basic unmet needs affected by the 1992 flooding	Buenos Aires, Chaco, Corrientes, Formosa, Misiones and Santa Fé	Provincial emergency coordination sections, housing agencies and municipalities

414. As regards measures to facilitate home ownership, the State has introduced through the National Mortgage Bank a programme to provide mortgage loans for house purchase or repair, with a maximum term of 12 years and annual interest of 11%. In order to obtain such loans, personal application must be made to the National Mortgage Bank or one of the financial institutions which make loans of this kind under agreements with the Bank. This measure will make it possible for people to buy a home for an amount similar to the cost of renting. The ample supply of mortgage loans is an indication that the advantages of this method of home purchase are stimulating demand.

415. At the same time, the National Housing Fund (FONAVI) continues to operate, as can be seen from the table. The Under-Secretariat for Social Development and the National Mortgage Bank have obtained US$ 1 billion in financing from international credit organizations for house-building under the auspices of the Fund.

Province of Chubut

The Provincial Housing and Urban Development Institute

416. As part of the overall restructuring of the provincial State and the reorganization of its relations with civil society, Chubut initiated in 1992 a number of comprehensive reforms driven by the idea of establishing a new management model for the production of social housing based on the principles of:

Regulatory centralization and operational decentralization;

The provincial State as promoter and coordinator of the social sectors;

A high degree of participation by civil society;

Improvement of the returns on investments.

417. The housing situation was so complicated and involved so many different sectors that it was necessary to diversify the types of response (from the standpoints of construction, management and/or funding) and thus to create a menu of solutions to housing problems. The province's policy was focused on expansion of the supply to include housing and infrastructure developments and step-by-step housing, and intermediary and lending agencies were created for the purchase, extension and repair of houses. The following were the main results of this more flexible approach:

(i) Optimization of the use of resources;

(ii) Expansion of the housing supply;

(iii) Transfer to intermediaries of some of the transactions needed for housing construction.

The province's lending programme

418. As part of this housing policy, over the past two years the province's Housing and Urban Development Institute has been operating a programme of individual loans to provide an innovative response for population groups which had in the past been excluded from the formal financial system as borrowers, offering them the possibility of choosing from among a variety of modes (purchase/sale/extension). This innovation proved a big challenge for the Housing Institute, for it had to adapt part of its operational structure while at the same time establishing a regulatory framework for implementation of the new arrangement.

419. There are currently three loan possibilities:

Individual or joint loans for the purchase, construction, completion, extension or repair of individual housing units in the non-luxury category. This option does not cover financing for the purchase of FONAVI housing;

Loans for rural areas for small farmers for the building of new houses or the construction of mains infrastructure within a property. The infrastructure works include roads for vehicular access, water and electricity supply, and additional works for connection to mains sewerage and gas supply.

Loans for poor families. This option is for poor families who own their own land and wish to build, complete, extend or repair their homes, or who do not own land but have been selected by the township where they live.

Province of Mendoza

(a) Programmes for vulnerable groups designed to increase the opportunities, possibilities and potential of groups whose vulnerability is due to biological, psychological or social conditions: children, adolescents, young people, the elderly, the disabled, and women;

(b) Programmes of social compensation and housing improvements designed to meet the immediate needs of low-income families and to promote a suitable physical environment for the psychological and social development of individuals and families. The programmes include food aid, jobs under temporary and emergency projects, and social housing;

(c) Capacity-building programmes designed to awaken and strengthen the whole potential of individuals, groups and communities in terms of their social, organizational, sports, employment and production capacities.

420. In 1997 the Under-Secretariat for Social Development was allocated a total of 124,973,000 pesos (from provincial, national and municipal sources), a significantly higher sum than in previous years which provided an opportunity and a boost for Mendoza's social policies with respect to the need to guarantee the rights of the child.

Article 28. Education

421. The Constitution and legislation of the Argentine State guarantee the provision of compulsory and free education throughout the education system.

422. Article 5 of the Constitution states that the provinces are responsible for "primary education", and article 14 establishes, among other rights, the right to "teach and learn". While there are other references to education in the Constitution, the main one is found in article 15, paragraph 19, on the powers of the Congress, which include the power:

> "To enact organizational and basic laws governing education which will consolidate national unity while respecting provincial and local characteristics, fulfil the non-transferable responsibility of the State, ensure participation by the family and society, promote democratic values and equal opportunities and possibilities without any discrimination whatsoever, and foster the principles of free and uniform public education and the independence and self-government of the national universities".

423. Several article of the Constitution state explicitly that, through its provincial jurisdictions and the municipality of Buenos Aires, the national State must provide free compulsory education for all the country's inhabitants without any discrimination whatsoever.

424. Where specific legislation is concerned, Act No. 1.420 of 1884, the forerunner of the Federal Education Act (No. 24.195 of 1993), made school attendance compulsory for all children from ages six to 14 and provided for free and progressive secular education at the primary level (seven grades).

425. Article 10 of the Federal Education Act extends the period of compulsory school attendance to 10 years (one year in a kindergarten/reception class at age five, plus nine years of basic general education), while article 39 stipulates that education shall be free:

> "The national State, the provinces and the municipality of Buenos Aires shall guarantee, by allocating funds to their respective education budgets, the principle of free education in publicly funded education services at all levels and under all special systems".

Secondary education

426. Secondary education, including technical and vocational education, is available without any kind of discrimination or limitation to anyone who completes the basic cycle and wishes to continue his studies, whether general or technical in nature.

427. In 1988 there were 1,937,324 pupils enrolled in secondary education, a figure which had risen to 2,238,091 by 1994, i.e. a growth rate of 15.5% over that period. In 1988 there were 6,125 educational establishments catering for the total enrolment; by 1994 the figure stood at 7,239, a growth rate of 18.2%.

428. The right to free education is clearly established in article 39, paragraph 1, of the Federal Education Act:

> "The State, the provinces and the municipality of Buenos Aires shall establish a system of grants for economically deprived pupils of either sex enrolled in courses at levels higher than compulsory basic general education; these grants shall be awarded on the basis of academic achievement".

Access to higher education

429. Title II, article 5, of the Higher Education Act (No. 24.521 dated this year and recently adopted by the Congress) states:

> "The higher education system comprises non-university higher education establishments providing teacher training, training in the humanities and the social sciences and technical and vocational or artistic training, and of institutions providing a university education, including universities and university institutes".

430. Title I, article 2, contains the following provisions on access to higher education:

> "The State may not delegate its responsibility to provide public higher education services and it shall recognize and guarantee the right to a higher education of all persons who wish to receive one and who have the required training and ability".

> "The only requirements for registration as a student in a higher education institution are completion of the secondary or the multi-modal cycle of education and satisfaction of the admission regulations of the institution in question. Article 7 of the Act makes an exception for persons aged over 25, who are exempted from the requirement of completing the secondary or multi-modal cycle if they can pass tests demonstrating that they "have training and/or work experience qualifying them for the courses which they wish to take as well as the ability and knowledge to pursue such studies successfully".

431. Total enrolment in public and private non-university higher education establishments was 230,686 in 1988 and 310,997 in 1994, a growth rate of 34.8% over the period. The total enrolment in the entire university system was 652,997 and 727,362 respectively in those two years, a growth rate of 11.4%.

432. There was a considerable increase in the number of university-level establishments, from 26 in 1988 to 79 in 1994, a growth rate of 204%.

433. Non-university higher education had 1,099 establishments in 1988 and 1,674 in 1994, a growth rate of 52.3%.

434. In 1995 the annual expenditure per university student was 1,789.46 pesos.

Budget per student per university. Estimated data for 1995 (pesos)

University, 1994/1995 census	*No. of students*	*Budget*	*Expenditure per student*
Buenos Aires	173 345	271 122 642	1 564.06
Catamarca	3 251	18 601 865	5 721.89
Centro	4 860	22 588 597	4 647.86
Comahue	8 808	36 372 476	4 129.48
Córdoba	69 029	109 332 654	1 583.87
Cuyo	14 740	69 121 591	4 689.39
Entre Ríos	5 690	20 341 088	3 574.88
Formosa	1 429	6 822 051	4 774.00
General San Martín	2 979	3 501 474	1 175.39
General Sarmiento	No figures available	2 565 262	
Jujuy	235	14 421 689	61 368.89
La Matanza	8 001	13 029 143	1 628.44
La Pampa	3 171	17 263 631	5 444.2
La Plata	47 845	85 754 277	1 792.34
La Patagonia	4 266	30 163 533	7 070.68
La Rioja	5 332	9 886 049	1 854.10
Litoral	13 829	38 476 437	2 782.30
Lomas de Zamora	18 508	18 725 047	1 011.73
Luján	6 601	16 593 327	2 513.76
Mar del Plata	17 612	35 233 364	2 000.53
Misiones	6 112	27 204 282	4 450.96
Nordeste	32 144	44 508 243	1 384.65

University, 1994/1995 census	*No. of students*	*Budget*	*Expenditure per student*
Quilmes	1 408	10 559 679	7 499.77
Río Cuarto	6 880	29 209 734	4 245.60
Rosario	41 990	77 585 234	1 847.71
Salta	8 457	26 797 233	3 168.65
San Juan	7 545	58 385 770	7 738.34
San Luis	5 926	33 678 401	5 683.16
Santiago del Estero	2 251	15 404 496	6 846.40
Sur	6 473	33 151 543	5 121.51
Tecnológica Nacional	55 748	86 418 250	1 550.16
Tucumán	31 331	90 243 978	2 880.34
Total	615 796	1 101 940 398	1 789.46

Source: Census of Students in National Universities and Secretariat for University Policy, Ministry of Culture and Education.

Efforts to establish a basic education system

435. Various measures have been taken in recent years to provide an education for those who have not yet received primary education or have not completed the full cycle. They include the 1986-1989 National Literacy Plan and the 1990-1992 Federal Literacy and Basic Education Programme for Adults.

436. Since 1994, the nationwide project to enable adults to complete the primary level of education by distance learning under the Social Plan for Education has been operating in 14 of Argentina's 24 provincial jurisdictions. Participants use common course materials, except for one region which has its own module. The project is intended for persons aged over 18 who know to read and write. It operates along decentralized lines with nationwide coordination, follow-up and assessment.

437. As can be seen from the table below [missing], the percentage of persons who have never attended school is relatively low. There is, nevertheless, a vital need to cater for the large number of people who did not complete primary education. The education services provide a broad coverage extending to virtually the whole of the country, except for sparsely populated rural areas. (Source: INDEC.)

438. The measures taken by the education authorities to transform the system since the adoption of the Federal Education Act are designed to deal with the main problems encountered in the past in order to secure the full realization of the right to study in conditions of equality and with quality education. The following are the main problems being tackled:

1. Problems internal to the education system

(a) The system's segmentation, which is responsible for differences in the quantity and quality of the services offered;

(b) The system's centralization and bureaucratic nature, despite efforts to decentralize which have assigned management responsibility to the country's provincial jurisdictions;

(c) Curricula which are unsuited to the cultural realities of society and whose scientific, epistemological and pedagogical basis is insufficient to meet the new challenges;

(d) The vertical structure of education establishments, which place greater emphasis on order and discipline than on providing opportunities for participation in the formulation of learning projects;

(e) Teacher training and qualifications, which are of a low academic standard, unrelated to classroom practice and totally deficient as an institutional project;

(f) Teaching methods, with their tendency towards rote learning and a formalistic approach;

(g) The inadequate infrastructure of municipal school buildings and the poor quality of equipment and teaching materials;

(h) Teachers' gradual loss of professional status;

(i) The historical insufficiency of the resources allocated to the education budget.

2. Problems external to the education system

(a) Argentina's vast area, with its sparsely populated regions and inadequate communications infrastructure;

(b) The social and economic circumstances of families: structural poverty;

(c) Insufficient family and community commitment to schools and to children's education;

(d) The tendency for families to migrate in search of work, taking their children with them, with the consequent absenteeism, repeated years and drop-outs;

(e) The need for children and young people to work.

439. In the light of some of the problems described, the Federal Education Agreement signed by all the provincial jurisdictions set a number of policy goals for the period 1995-1999.

440. In addition, the various measures described below were implemented in order to improve standards and ensure equality in education.

A. New schools for the twenty-first century

441. This programme was begun in 905 schools at all levels on the basis of the following criteria:

Quality of education services;

School democracy;

School efficiency;

Active learning;

Individualized attention for pupils as a means of ensuring equality;

Specialized professional staff;

Enhanced institutional autonomy for schools.

442. It is hoped that the implementation of these policies will bring about the following changes:

In the classroom

A variety of proposals for organizing group work at various levels;

Reorganization of timetables and use of space;

Use of different sources of information;

Use of handbooks to allow pupils to work independently;

Assessment of each process and the results.

B. Federal network for in-service teacher training

443. The purpose of this programme is to provide a framework to facilitate intra- and inter-provincial links for developing a federal network for in-service teacher training in respect of:

Training for the diploma;

In-service teacher training;

Training of graduate teachers for new professional tasks;

Training for graduates who are not teachers.

444. This network consists of 24 provincial focal points designated by each local government and a national focal point in the Ministry of Culture and Education.

445. In this context the network provides training for the education system's 650,000 teachers. The subjects of the training relate to the common core content and to other subjects relevant to the system's new structure and management. The criteria of the network's structure are that quality services must be provided with easy accessibility and free of charge.

446. The network conducted the following activities in 1994:

756 refresher courses for teachers nationwide;

In-school training courses for 48,770 teachers;

Training for 286,770 teachers through a multiplier effect in each province;

Training for 50,000 teachers by distance learning.

Production by the Ministry in fascicle form of 8,150,000 copies of texts on biology, physics, chemistry, mathematics, history, language and geography and their distribution as a training support to 47,000 schools throughout the country.

447. Another service available is the electronic teacher training system, which links 1,050 teacher training institutes through an electronic network providing information on training opportunities, materials and documentation, as well as access to databases in Latin America and throughout the world on the Internet.

448. The Ministry has provided the following basic equipment: AT 486 personal computers with Super VGA monitors and built-in modem/fax; laser-quality ink-jet printers; television sets; video recorders; video cameras; two hundred general and specialized works on teacher training.

449. This equipment has made it possible to link all the teacher training institutes to each other through the electronic system and to expand their libraries, as the works provided are the basic reference materials for primary and secondary teacher training.

450. The aim is to ensure that the necessary teacher training is generally available, with a view to the gradual introduction and implementation of the provisions of the Federal Education Act.

C. Quality assessment programme

451. The national system for assessment of the quality of education (SINEC) was established under the Act as a key tool for enabling the Ministry to secure quality and equality in the dissemination of knowledge in all parts of the country.

452. SINEC comprises an annual assessment of the scholastic achievements of pupils at all levels of the system, monitoring of the relevance of curricula to the needs of society and the industrial and academic sectors, and monitoring of the quality of teacher training.

453. Two nationwide assessments of the scholastic achievements of pupils completing primary and secondary education were carried out, in 1993 and 1994. A third assessment was carried out in 1995.

454. These sample assessments provided information on the situation of education throughout the country. They will serve as a basis for methodological recommendations to be put to all teachers with a view to improving classroom practice, improving and providing guidance for teacher training, and helping the provinces with the greatest difficulties.

First national assessment, 1993

Pupils assessed	19,943
Sections assessed	1,056
Provinces	24
Tests given	38,876 (language and maths)

Questionnaires were sent to 9,832 families, 1,056 head teachers, 1,097 teachers and 19,438 pupils.

(a) Submission of national and provincial results (drafting and publication of the parliamentary report in November 1994 in accordance with the Federal Education Act);

(b) Production of booklets containing methodological recommendations for teaching language and mathematics at the primary and secondary levels (for distribution to schools country-wide);

(c) Training for supervisors, head teachers and teachers in the use of the results of the assessment, in the provinces requesting such training.

Second national assessment, 1994

Pupils assessed	86,668
Sections assessed	4,583
Provinces with a broader sample	24
Tests given	346,672 (language, maths, natural and social sciences)

Questionnaires were sent to 4,583 head teachers, 9,166 teachers and 86,668 pupils.

(a) Submission of national and provincial results (on completion of processing);

(b) Production of booklets containing methodological recommendations for teaching language and mathematics at the primary and secondary levels;

(c) Preparation of modules for the training of supervisors and administrative and teaching staff in the use of the results of the assessment.

Adult education

455. Argentina has literacy and primary education services catering for an estimated total of 180,000 adults.

456. In-school courses attract mainly adolescents and elderly persons, with relatively little participation by the economically active population. A distance-learning project was therefore formulated to target that group, particularly in urban and suburban areas; the project is helping workers, parents of children at the pre-school and primary levels, the prison population, and housewives.

457. Surveys are being carried out as part of the project to obtain more precise details of the target groups, in order to formulate projects better-suited to their needs.

Percentage of the budget earmarked for education

458. Articles 60 and 61 of the Federal Education Act provide for the gradual doubling of public investment in the national education system, in steps of at least 20% a year beginning with the 1993 budget.

Year	*Percentage*
1991	12.3
1992	12.6
1993	12.8
1994	14.6

The school system

459. Argentina's education system is defined in title III, chapter 1, articles 10-12, of the Federal Education Act. Article 10 states:

> "The structure of the education system, which shall be established gradually and progressively, shall consist of:
>
> (a) Three years of pre-school education in kindergartens for children aged three to five, the last year of which shall be compulsory. The provinces and the municipality of Buenos Aires shall, where appropriate, establish nursery schools for children aged under three and provide support to enable community institutions to provide nursery school services and assistance for families in need of such services;
>
> (b) Basic general education, which shall be compulsory and last for nine years from age six; it shall constitute a single educational unit organized in cycles in accordance with the provisions of article 15;
>
> (c) Multi-modal education, following completion of basic general education, provided by specialized institutions and lasting a minimum of three years;
>
> (d) Higher, vocational and degree-level education following completion of the multi-modal level; its duration will be fixed by the university and non-university institutions, as appropriate;
>
> (e) Post-graduate education".

460. To summarize, the new structure of the education system looks like this:

Academic structure

(a) Pre-school education from ages three to five: designed to build on the process of learning in the family and initiate reading and writing;

(b) Basic general education lasting nine years and divided into three cycles:

  (i) The first cycle. The main aims are to teach children to read and write, to introduce them to mathematical concepts, and to teach basic concepts of an understanding of the world;

  (ii) The second cycle. The purpose is to consolidate language and mathematics. The conceptual frameworks of various cultural fields, such as the social and natural sciences, technology, the plastic arts, music and physical education, are introduced gradually. This body of knowledge helps pupils to become personally and social self-sufficient;

(iii) The third cycle. This cycle provides educational opportunities suited to the needs of pre-adolescent and adolescent children. It further develops and expands their knowledge of language, mathematics and the scientific, technological and artistic disciplines. It also fosters the development of more complex individual and social behaviour in accordance with the pupils' own development and society's expectations;

(c) Multi-modal education, offering an attractive variety of activities linked to the world of work and based on a general core curriculum. It includes a number of workshops and activities forming an initial link with the scientific and production worlds. It prepares pupils for higher education and, when taken in conjunction with a technical/vocational course, may lead to a technical qualification.

(d) Technical/vocational education, which teaches the necessary skills for jobs in specific industrial sectors.

(e) Higher education (non-university, university and post-graduate).

Equal access to the different levels of education and measures to promote literacy

461. See annex: enrolment by level and by sex.

Access to the different levels of education

462. Earlier paragraphs of this report make reference to factors internal and external to the education system as variables which historically have created a variety of opportunities in terms of the quantity and quality of the services offered.

463. The successive efforts of the education authorities delivered universal access to the system, so that in respect of access it may be said that the right to literacy for all is guaranteed de jure and de facto.

464. It is for this reason that, without neglecting the needs in terms of coverage, the current efforts of the education authorities to change the system in compliance with the Federal Education Act are focused on the improvement of the quality of instruction, but always in accordance with the principle of equality, which posits similar academic achievements despite differences in income.

465. Accordingly, the Social Plan for Education is implementing under the programme "Better education for all" a project No. 4 on the promotion of alternative proposals, which gives priority to specific areas:

Indigenous communities (bilingual education);

Children at risk of dropping out from the last primary cycle and children who work;

Children with special needs;

Young people and adults who did not complete primary school;

Sparsely populated rural districts where the needs can be met by distance learning.

466. The efforts to correct the problems in these areas involve a strong element of equity and justice, because the measures have to be tailored to each individual situation. This is why the Social Plan for Education, as part of its work on these problems in 1994 and 1995, encouraged the submission of projects to tackle them, provided that such projects had been approved by the provincial education authorities.

467. Depending on budgetary resources, the Ministry's support for such proposals takes the form of:

Funds for purchase of teaching materials and equipment by the individual institutions;

Supply of books to stock libraries;

Agreements with specialist instructors who have their own workshops and can hire out their services for practical training;

Recruitment of professionals specializing in the particular educational problems in these areas to carry out field work;

Funds for special further-training courses for teachers.

468. One example of this type of activity is the support given by the Social Plan in the shape of an investment of about 250,000 pesos for the construction in Chaco province of an indigenous research and training centre, which will train indigenous classroom assistants and nursery and primary teachers to work in schools attended by children of different ethnic groups. There will be other activities, including further training for teachers and research on cultural, linguistic and educational topics to back up the bilingual programme.

469. These activities are covered by chapter 4 of the Constitution, which calls upon the National Congress: (i) to recognize the ethnic and cultural pre-existence of indigenous peoples in Argentina; and (ii) to ensure respect for their identity and their right to a bilingual and cross-cultural education.

Measures taken to establish or guarantee equal access to all levels of education

470. As stated in earlier paragraphs, the Education Ministry is taking action under the Social Plan for Education to help low-income and rural population groups, indigenous communities, children with physical or mental disabilities, and other specific groups, in order to ensure that they can enrol and that they remain in the education system and to upgrade the teaching dispensed by the schools by giving priority to strategies to improve in-service training and help to eliminate inequalities in education. The following targets were achieved in 1993-1994 and 1995:

Targets	*Achievements*
Elimination of "makeshift" schools	1,875 new schools
Construction of kindergartens	1,750 constructed
Construction of classrooms	997 constructed
School repairs	2,246 repaired
Textbooks, encyclopaedias and other reference works, children's literature	3 million books distributed

Targets	*Achievements*
Exercise books	7.5 million distributed
Computer equipment	5,600 computers supplied
Grants for teaching materials and equipment	4,800 schools
Further training for teachers of children with learning problems	50,000 teachers
Grants for innovative projects (incentives)	1,000 projects financed

These targets were achieved by means of the following investments.

1993	$Arg 62,450,000
1994	$Arg 126,000,000

For 1995

Targets	*Achievements*
School construction (classrooms, kindergartens, new buildings	1.2 million square metres
School repairs	1,000 schools repaired
Textbooks, encyclopaedias and other reference works, children's literature	2.35 million books distributed
School supplies	for 1.5 million pupils
Teaching materials and equipment	for 8,000 schools
Further training	for 50,000 teachers
Grants for innovative projects	1,400 projects
Furniture for primary schools	9,000 items

These targets were achieved by means of the following investment:

1995	$Arg 99,396,519

Conditions for teaching staff at all levels

471. Before the transfer of education departments to the country's various provincial jurisdictions (Act No. 24.049 of 1992) the material conditions of teaching staff were governed by Act No. 14.473 of 1958, which had established the Teaching Staff Statute for the sector when it was still under national jurisdiction. Provincial legislation was supposed to be brought into line with the regime established by that Act.

472. The Statute covered the primary, secondary and non-university levels, including the elements referred to in the recommendation of 5 October 1966 of the Ad Hoc Intergovernmental Conference on the Situation of Teaching Staff, organized by UNESCO.

473. University teachers were governed by the statutes of their university, which were in keeping with specific legislation on that level.

474. Matters not addressed in the statutes were regulated by a supplementary legal framework provided by national legislation on the civil service.

475. The statutory requirements are currently being amended as a result of the adoption of a new Higher Education Act (No. 24.521 of 1995).

476. Following the transfer of education departments to the provinces and the municipality of Buenos Aires, teachers are now covered by provincial legislation.

477. This legislation has the same general structure as Act No. 14.473 and maintains most of the job benefits enjoyed by teachers.

478. Articles 46 and 47 of the Federal Education Act (No. 24.195 of 1993) establish the basic schedule of teachers' rights and duties, to which the provinces have to adapt their own legislation. These articles read:

> "Article 46. Without prejudice to the labour rights recognized in the general legislation in force and those contained in specific legislation, all persons employed in State or private education shall be entitled:
>
> (a) To exercise their profession on the basis of freedom of instruction in accordance with the rules governing curricula and instruction adopted by the education authorities;
>
> (b) To enter the system by a competitive examination which ensures their suitability for the profession and their respect for teachers' professional obligations, and to advance in the profession on the basis of merit and job performance;
>
> (c) To receive fair remuneration for their work and qualifications;
>
> (d) To health care and prevention of health-related illnesses;
>
> (e) To exercise their profession in buildings where the health and safety conditions meet the requirements of a proper quality of life and to have the necessary teaching materials and resources provided at their place of work;
>
> (f) To recognition of the services they provide and access to special benefits when they work in schools in underprivileged or isolated areas;
>
> (g) To a social insurance scheme which allows them to move between provinces in the exercise of their profession and recognizes the contributions paid and seniority earned in any of the provinces;
>
> (h) To the right to strike;
>
> (i) To training and to in-service refresher courses and further training in order to adapt them to any curriculum changes which may be necessary;

Persons employed to teach in private schools must have qualifications recognized by the local education authorities for the exercise of their profession; they shall then be entitled to the conditions of employment provided for in the present article, except subparagraphs (a) and (b)".

"Article 47. Persons employed in education have the following duties:

(a) To obey the institutional rules of the educational community to which they belong;

(b) To take part in a supportive manner in the activities of the educational community;

(c) To respect the freedom and dignity of pupils as persons;

(d) To take further training and refresher courses.

Proportion of schools at all levels not established and administered by the Government

479. In the light of the national census of teachers and education establishments conducted in 1994 by the Education Ministry, it must be pointed out that a school may be operating one or more levels of instruction at the same time. Each establishment will thus have as many education units as levels of instruction.

480. Accordingly, the information given below covers total numbers of establishments by type of education and total numbers of education units by level. In both cases the information is broken down by into State and private sectors.

Total number of establishments by type and sector

Sector	*Total*	*Ordinary only*	*Ordinary and other*	*Other types**	*No information*
Whole country	38,330	32,698	1,139	4,249	244
State	30,235	25,301	937	3,828	119
Private	7,767	7,214	145	370	38
No information	328	183	7	51	87

* Establishments providing adult, artistic and/or special education either exclusively or in combination (but not in combination with ordinary education).

Total education units by education level and sector

Sector	*Total*	*Pre-school*	*Primary*	*Secondary*	*Higher (non-university)**	*Others*	*No information*
Whole country	48,538	12,720	25,448	7,239	1,674	1,382	75
State	36,977	8,826	21,661	4,386	956	1,120	28
Private	11,174	3,801	3,612	2,802	708	247	4
No info.	387	93	175	51	10	15	43

* Courses with no equivalent at the primary or secondary levels offered in special and adult education.

Education units by education level (1988 and 1994)

Level	*1988*	*1994*
Pre-school	9,137	12,720
Primary	21,207	25,448
Secondary	6,125	7,239
Higher (non-university)	1,099	1,674
University	26	79
Other	0	1,382
No information	0	75
Total	37,619	48,617

Source: National census of teachers and education establishments 1994 (provisional results), Office of the Federal Education Information Network, Secretariat for Education Programming and Evaluation, Ministry of Culture and Education.

Difficulties for persons wishing to establish schools or obtain access to them

481. The possibility of setting up a school not administered by the Government is established in article 14 of the Constitution: "All inhabitants of the Nation enjoy the following rights in accordance with the laws governing their exercise: (...) to teach and to learn".

482. Furthermore, title V of the Federal Education Act, "On privately administered schools, reads in part:

> "Article 36. Privately administered education services shall be subject to prior recognition and monitoring by the public education authorities.
>
> The following agents are entitled to provide such services: the Catholic Church and other religious denominations registered in the National Register of Religions; societies, associations, foundations and enterprises having legal personality; and private individuals.
>
> Being part of the national education system and subject to its rules and regulations, such agents shall have the following rights and obligations:
>
> (a) Rights: to establish, organize and maintain schools; to appoint and promote managerial, teaching, administrative and auxiliary staff; to decide on the use of school buildings; to draft syllabuses and curricula; to award recognized certificates and diplomas; and to take part in education planning;
>
> (b) Obligations: to comply with national and provincial education policies; to offer education services which meet the community's needs, as well as offering any other type of service (recreational, cultural, assistance) on a cooperative basis; and to provide any necessary information for the Government's monitoring of matters connected with teaching, accounting and employment.
>
> Article 37. The State's contribution to teachers' salaries in privately administered education establishments shall be based on objective criteria in accordance with the principle of redistributive justice in the context of social justice and shall take into account inter alia an

establishment's social function in its area of influence, the type of establishment, and the fees charged.

Article 38. Teachers in recognized privately administered education establishments shall be entitled to a minimum salary equal to that of teachers in State-administered institutions; they must hold qualifications recognized by the legislation in force in each province".

483. Lastly, it should be pointed out that there is no obstacle to access to privately administered schools. It is recalled that article 37, cited above, provides for a contribution by the State to the salaries of teachers in such schools; from the financial standpoint this facilitates enrolment.

484. See annex 66 for statistics on the situation of education in Argentina.

Discipline

485. The Federal Education Act sets out principles compatible with the Convention.

486. Since the entry into force of the Act and the Convention, it has been mandatory to amend any rules relating to children which are incompatible with these instruments.

487. The Interior Ministry's Under-Secretariat for Human and Social Rights produced a proposal to facilitate the adoption by education establishments of certain basic standards which may make a useful contribution to the discussion of the disciplinary arrangements in each establishment.

488. There have been several formal attempts to correct situations in which rights were being infringed but such attempts proved unsuccessful, in most cases because the practices in question had become so firmly rooted since the adoption in 1943 of the General Regulations for Secondary, Teacher Training and Special Education, which were based on a philosophy of discipline in tune with the historical and political context of that time.

489. The necessary conclusion is that it is not enough to change the regulations (which is often done) but that it is also necessary to build a new legitimacy based on objectives which help to consolidate democratic life: full citizenship, effective exercise of the fundamental rights, and learning based on knowledge but also on the experience gained in the education community by all its members. In short, what is needed is to replace the proposition of "keeping order" with the concept of "creating the conditions for mutually respectful co-existence".

490. Current disciplinary systems regard school life and the individuals taking part in it from a restrictive and punitive standpoint and pursue "order" as an end in itself.

491. In contrast, the systems which are being developed for introduction seek to establish an ideal of life lived in common by accord of the persons involved, in an attempt to become the everyday and sincere expression of school life as a dialogue among its members, replacing mere deference to rules by processes of situation analysis, listening to reasons and learning to give them, disagreeing on the basis of rational arguments, and avoiding arguments based on authority.

International assistance

492. The proposed Education Reform and Investment Programme, with financing from the Inter-American Development Bank, is designed to help provincial governments improve the quality of pre-school and basic general education and teacher training. The Programme covers the following areas: institutions, financing, human resources, curriculum design and implementation, and infrastructure and

equipment. The cost is 550.2 million pesos over the period 1995-1999 for all the provinces requesting assistance.

493. The Secondary Education Decentralization Programme, with financing from the World Bank, is designed to support secondary decentralization by means of investments in institution-building in provincial ministries and schools.

494. This project's general objective is to help to improve the efficiency and quality of secondary education services through a five-year investment programme for institution-building, improvement of the quality of education and upgrading of municipal infrastructure.

Changes in national policies, laws and practices which adversely affect the right established in this article

495. On the basis of the explanations contained in the present report, it may be stated that there have been no changes which adversely affect the right established in this article.

496. On the contrary, the provisions of the Constitution and the Federal Education Act, which is the product of participation by organizations and sectors representing the entire national community, and the strategic guidelines set out in the Act are designed to encourage, on the basis of equity, broader education coverage and improved quality at all levels and for all sectors of the population, especially the most disadvantaged.

Province of Chubut

497. Chubut initiated its own structural reform within the framework of the national reform of education by introducing a third cycle and coordinating it with the existing system. The first step was the implementation of a pilot phase in the town of Rawson in the 1997 school year so that any difficulties could be identified, solutions tested in practice, and adjustments made to the initial project.

498. For implementation purposes the province adopted Act No. 4.242, which empowered the provincial executive authorities to enact the necessary regulations for the start-up in Rawson, in a seventh grade, of the experiment with a third cycle of basic general education. The pilot project was to end in 1999 on the completion of the whole cycle, consisting of the seventh, eighth and ninth grades.

499. Since the introduction of the seventh grade in the current school year, as an experiment leading to universal application, is moving ahead satisfactorily, now is the right time to extend it to the whole province.

500. Under an agreement between the national Education Ministry and the province of Chubut and pursuant to article 21 of Act No. 23.737, a remedial education unit for drugs control was established for Rawson and Trelew.

501. The Act on the comprehensive protection of children and the family devotes a separate chapter to education. It establishes the right to education as a means of securing children's comprehensive development, preparing them for citizenship, and training them for work. In this connection the provincial State has an obligation to ensure:

- Free admission to a public school close to the child's usual place of residence;

- Equality of conditions of admission, advancement and graduation;

- The right to be respected by the members of the education community;

- The right to be informed about procedures and to take part in the formulation of the rules governing school life;

- The right to be heard before decisions are taken on any measure or punishment, which may be taken only in accordance with clear and fair procedures;

- The right to have one's performance and achievements assessed in accordance with previously agreed rules and to be informed about and to be allowed to object to such assessments, with recourse to higher school authorities if necessary;

- The right of recourse to higher educational or non-educational authorities in connection with any measures or punishments that are ordered;

- The right to form and participate in student organizations;

- Awareness of the rights in question.

502. The Act also stipulates that parents and other legally responsible persons have a right and a duty to familiarize themselves with the education process and that they are empowered to take part in decisions affecting education.

503. It further stipulates that the provincial State must provide, in the education of children in formal and informal systems, for the consolidation of values based on respect for human rights, cultural plurality, the diversity implied by disability or disadvantage, the environment and natural resources, and social assets, with a view to training children to live responsible lives.

504. The Act also provides that respect shall be accorded in the education process to the cultural, ethnic, artistic and historical values of the social context of the children in question, that they shall be guaranteed the freedom to create and the right of access to sources of culture with a view to the maximum possible development of individual potential, and that curriculum policy shall be adapted to the children's cultural needs in order to facilitate the greatest possible social integration within a framework of tolerance of diversity.

Article 29. Education to develop respect for human rights

505. The topic of human rights was incorporated in 1995 in the common core curriculum of the ethics and citizenship courses taught in basic general and multi-modal education and in teacher training for all levels. This core curriculum was adopted at the federal level, and the topic of human rights is part of the curriculum in all the provinces.

506. Since 1992 Argentina has been pursuing a policy of publishing legal texts and international declarations on the rights of the child.

507. Many of the provinces also joined in the National Campaign for the Rights of the Child, consisting of a week-long series of intensive activities in schools.

508. A story book entitled "I'm counting on you", offering specific instruction in the rights of the child, was published in 1998 and distributed free of charge.

509. An international seminar on "Education and quality of life" was held in 1997 under the programme on cross-cutting curriculum content, followed in 1998 by a consultation meeting for social workers involved in quality-of-life projects. Personnel from the education system and NGOs exchanged experience on the difficulties involved in educating indigenous peoples, marginalized groups, persons with health problems, etc. The conclusions reached will be used in the drafting of updated curricula taking quality of life as their design criterion.

Constitution of the Autonomous City of Buenos Aires

"Article 24. The City shall assume responsibility, which may not be delegated, for the funding of secular and free public education at all levels and in all modes from the forty-fifth day of life up to the higher level; such education shall be compulsory for 10 years from the pre-school level, or for any longer period that the law may prescribe.

It shall establish an education system administered and controlled by the Executive which, in accordance with the City's legislation on education, shall ensure grass-roots participation and democracy in decision-making.

It shall create and recognize, within its jurisdiction, education establishments empowered to award academic qualifications and degrees at all levels.

It shall be responsible for the training and further training of teachers and shall ensure their suitability and establish for them a career structure and levels of remuneration consistent with their social function.

It shall guarantee the right of persons with special needs to receive education and to work as teachers, promoting their integration at all the system's levels and in all its modes.

It shall encourage links between education and the production system and provide training for integration and reintegration in the labour market. It shall inculcate critical attitudes and the capacity to respond to developments in science and technology and production processes.

It shall take the gender perspective into consideration.

It shall introduce human rights and sex education courses.

Article 30. Minorities

510. On the basis of the information contained in Argentina's third periodic report submitted under article 40 of the International Covenant on Civil and Political Rights concerning article 27 of the Covenant, in its eleventh, twelfth, thirteenth and fourteenth reports under the International Convention on the Elimination of All Forms of Racial Discrimination, and in the preceding paragraphs of the present report, attention may drawn to the following points:

Religious minorities

511. As stated in the section of the present report dealing with article 14, freedom of religion is fully guaranteed for all the inhabitants of Argentina.

512. Furthermore, the information given in respect of article 18 makes clear the rights and duties of parents and other persons legally responsible for children concerning the free exercise of religion and religious beliefs.

Linguistic minorities

513. Argentina's linguistic minorities are the indigenous communities living within its territory. All the measures described in the present report, both legislative and practical, constitute guarantees of their rights.

514. Nevertheless, attention is drawn by way of example to the following measures taken at the provincial level:

Province of Chaco

515. The "Casas del Sol" in the department of Güemes (Mision Nueva Pompeya, Comandancia, Frías, Castelli, Zauzal, Zauzalito) and in General San Martín and Charata cater for 90% of the indigenous children of the Toba, Mocobíes and Wichi ethnic groups.

516. They work alongside the mothers in caring for the children.

517. Efforts are being made to rescue the cultural heritage, and elements of white culture are being introduced in order to enhance the knowledge and improve the performance of children living astride the two cultures.

518. The Casas provide services for a total of 1,335 members of indigenous groups.

Article 31. Culture, leisure and free time

Cultural and artistic activities

519. The national Secretariat for Culture, which reports to the Office of the President, has the vital function of keeping the people's creative capacities alive and productive by affirming the people's lead role as advocates of culture, stimulating and supporting the persons who express the Argentine culture, especially its new values, and encouraging the development of their vocations and aptitudes. One of the Secretariat's objectives in this connection is the promotion of cultural activities for children and young people and extending them to the whole country.

Reading

520. As in most other parts of the world, the reading habit is on the decline in Argentina. There may be many reasons for this, including the very rapid advance of television and video films and a change in the way people use their leisure time, a change especially visible in the habits of urban life.

521. Programmes to encourage reading have been introduced throughout the country in an attempt to reverse this trend.

522. The Secretariat for Culture in particular has implemented a nationwide federal programme to persuade more people to take up reading, with emphasis on the most vulnerable population groups: children, young people, women, hospital patients, prison inmates, etc.

523. The National Commission for People's Libraries (CONABIP) has been creating "special reading corners".

524. The first Leopoldo Marescal National Reading Games were held in 1997, attracting a participation of 36,000 children aged five to 14 from all over the country. The final stage took place in the Federal Capital, with an extremely high level of participation, in the premises of the National Library, ATC Cultura (a television channel) and CONABIP, and even at the Olivos Presidential Estate, where 125 children selected from all provinces of the country were guests at a special reception hosted by the President, Dr. Carlos Saúl Menem.

525. The International Standard Book Number statistics indicate a recent recovery by reading, encouraged by the media impact of a number of big literary prizes awarded by several publishing houses and perhaps even more by the Buenos Aires Books Fair and the Children's Books Fair, international events which have been held with increasing success.

526. The Children's Books Fair attracts more than 300,000 visitors every year to its workshops, play areas, shows and other events for children, young people and teachers. This year the Secretariat for Culture held a number of events in halls at the Fair and at its stand (No. 61), which won first prize.

527. In addition, CONABIP has established children's rooms in the People's Libraries.

Music

528. The Secretariat for Culture counts the National Children's Choir among the organizations for which it is responsible. This Choir, together with the other choirs operating under the Secretariat's auspices (National Polyphonic Choir, and the Blind Singers' Polyphonic Choir) perform to audiences totalling more than 25,000 over the year.

529. In 1997 the National Symphony Orchestra recorded its first CD together with the two choirs, performing works by Argentine composers.

530. Educational concerts are presented by the orchestral, choral and dance groups of the Department of Music and Dance, directed by Maestro Pedro Ignacio Calderón, in public and private primary schools in Buenos Aires City and Greater Buenos Aires.

531. The series "Let's go to the opera" and "Children and music" were intended to bring opera and the tango to children aged 11-13, who were given an opportunity to attend the Cervantes National Theatre for performances of such operas as "La Cenerentola" and "L'Elisir d'Amore" in versions for children and performances by the Juan de Dios Filiberto National Orchestra for Argentine Music, directed by Maestro Osvaldo Piro. A total of 15 events were put on at the National Theatre between March and December 1997, in addition to the Tuesday concerts by the Juan de Dios Filiberto Orchestra, attracting a total audience of over 150,000 schoolchildren.

532. There were resounding successes such as the Beijing Opera and the children's play "Gulliver", and the auditorium was packed and sold out for almost all the events. "Gulliver" was presented throughout the year and was also given at performances reserved for schools: it was seen by 36,000 children from 58 schools.

533. The National Children's Orchestras Programme and the National Children's Choir offer children from different social sectors an opportunity to learn to play an instrument and to sing. With the definitive launch of this Programme the Secretariat has opened up a new space for creativity, social training through music, and the development and stimulation of Argentina's children and young people. This experiment in integrated training through music education is a project designed to offer vulnerable children and young people a valid alternative to marginalization and the perils of the street, for it focuses on their everyday lives and social activities.

534. The National Youth Choir, directed by Maestro Néstor Zadoff, is managed by the Department for Music and Dance; its members are aged 16 to 25, and it has a repertoire which includes Argentine and other Latin American composers; it has proved itself deserving of major national and international prizes.

Theatre

535. The Cervantes Theatre carried out in 1997 in conjunction with the Libertablas group its "Theatre in the classroom" programme, staging theatrical events in school classrooms. There were 124 of these events, with a total audience of about 25,000 children.

Special programmes

536. "Let's get together for culture" programme: the aim is to make local cultural events available to persons (children, young people or adults) suffering from some kind of disability, giving them access to cultural activities by installing suitable facilities. The following are some of the programme's activities:

- Electronic subtitling of theatre works and videos for the benefit of deaf people;
- Theatre programmes printed in Braille;
- Access ramps for wheelchairs on entrance steps and stairways and adaptation of toilet facilities;
- Free admission for disabled persons and reductions for their companions and special seat quotas in theatres for institutions and organizations working with the disabled;
- Signing for the deaf on guided visits in museums;
- Installation of "reading corners" in hospitals and homes for the elderly;
- Equipment of workshops and conduct of handicrafts courses for institutions working with children at risk, such as the Padre Grassi Foundation;
- On 22 December 1997 the Secretariat and the Ministry of Justice signed an agreement to extend the cultural and training activities to the inmates of prisons throughout the country; this project has already begun.

537. The Cervantes National Theatre is taking part in the "Let's get together for culture" programme. It was for this reason that it installed a ramp at its main entrance for wheelchair access to help theatregoers recovering from accidents or suffering from a locomotor disability. The Cervantes has undertaken to hold a special monthly function for disabled persons. For these performances an electronic subtitling panel will be installed above the stage.

538. There will also be programmes printed in Braille. These functions are scheduled for the last Friday in each month, and the Cervantes will make a total of 50 free seats available for disabled persons and a further 50 for their companions, in addition to complying with the arrangement of charging only 50% of the seat price for companions at all performances. This service was inaugurated in October for one of the performances of "The Old Lady's Visit".

Autonomous City of Buenos Aires

539. In accordance with its Constitution, the Autonomous City of Buenos Aires promotes sports and other physical activities on the basis of equality of opportunities.

540. It maintains free sporting facilities and supports the participation of its sportsmen and sportswomen, both normal persons and those with special needs, in national and international competitions.

541. Its Constitution states on the subject of participation in cultural and artistic life:

> "The City shall give special attention to and promote all creative activities. It shall ensure cultural democracy and free artistic expression and prohibit all censorship; it shall facilitate access to cultural assets and encourage the development of the country's cultural undertakings; it shall promote cultural exchanges; it shall actively defend the national language; it shall create and preserve spaces; it shall facilitate the removal of barriers to communication; it shall support training in the arts and in handicrafts; it shall support professional training in the cultural sphere; it shall ensure the quality and the due advancement of artistic productions and encourage the work of the Nation's artists; it shall protect and development the expression of popular culture; it shall make provision for creative workers and their organizations to take part in the design and appraisal of policy; it shall protect and foster the City's pluralist multi-racial identity and its traditions.
>
> This Constitution guarantees the preservation, restoration and development of the cultural heritage, regardless of its juridical status and ownership, and the memory and history of the City and its local quarters".

Province of Chubut

542. The organizational structure of the province's Ministry of Health and Social Welfare includes two offices concerned with the free-time activities of children (recreation, leisure and sports). The Under-Secretariat for Social Welfare has two specific offices:

- The Office of Recreation and Social Tourism, which has the following programmes:

    An educational camps programme: "Chubut, a place to learn about";

    A social tourism programme: "Getting to know my province";

    A programme entitled "Ambassadors for sports, recreation and culture";

- The Office for Sports, which has the following programmes:

    Chubut sporting games;

    Sports schools for beginners;

    Riding the Chubut River;

    ANTU HUENU

    Ambassadors for sports, recreation and culture;

Municipal sports and recreation councils;

Provincial mini-volleyball tournaments;

Brotherhood games;

Olympics for administrators;

Sun and space;

Inter-school sports competitions;

Araucanía games;

Standardization in sports;

Argentine games;

Social tourism;

Improvement of sports performance.

Article 32. Child labour

543. According to the 1991 national population census, 30.5% of 14-year-olds were economically active in rural areas and 11.7% in urban areas.

Minimum age for admission to paid employment

544. The Employment Contracts Act (No. 20.744) contains the current legislation on the prohibition of the performance of paid work by minors:

> "Article 187. Minors of either sex aged over 14 and under 18 may enter into any contact of employment subject to the conditions laid down in articles 32 et seq. of this Act. All regulations, collective employment agreements and wage scales shall guarantee minors equal pa when they work the same number of hours a day or perform tasks usually performed by adults. The apprenticeship and vocational training of minors aged over 14 and under 18 shall be governed by the relevant legislation in force or by legislation adopted for this purpose".

"Article 189. Employers are prohibited from employing minors aged under 14 in any ki of activity, whether for profit or not. This prohibition does not extend to minors employed, with the permission of the school attendance office, in enterprises employing only family members, provided t the work is not harmful or dangerous. Minors of school age but older than the age indicated above m not work unless they have completed their compulsory schooling, except with the express permission the school attendance office and when their employment is regarded as essential to their own subsisten or that of their direct relatives, and provided that they complete, in a satisfactory manner, the minimu period of compulsory schooling".

545. The Act also provides specific protection for minors aged 14 to 18 who work:

> "Article 188. When recruiting workers of either sex aged under 18 employers must require them or their legal representatives to supply a medical certificate of their fitness for work and must ensure that they undergo the periodic medical examinations required by the relevant regulations".

546. The presentation of this certificate does not preclude compliance with the requirements of other legislation concerning recruitment or admission to and continuation in employment. Article 35 of Decree Law No. 14.538/44, which applies to all minors aged under 18 who apply for permission to work, stipulates that, for the purposes of pre-recruitment examinations and the required periodic examinations, the physical condition of the minor must be assessed in the light of the nature, conditions and characteristics of the work which he is to do or is already doing and their influence on his physical, mental and moral well-being. The fitness examination must also take account of the hygiene and safety conditions at the minor's workplace (on a case-by-case basis) and of the tools he is to use. All these measures go far beyond the scope of a mere contractual relationship: the Act limits itself to determining the basis for the conclusion and continuation of the contract (fitness for work), while the other provisions contained in the regulations referred to in the last part of article 188 have to do with health policy and the protection and improvement of human resources, which are matters for labour, public health and social security law.

547. The current legislation stipulates that minors may not work more than six hours a day or 36 hours a week. The working day may be extended to eight hours and the week to 48 hours for minors aged over 16, subject to the prior authorization of the administrative authorities.

548. The same legislation also prohibits minors from performing night work, which is defined as work between 8 p.m. and 6 a.m.; in the case of industrial establishments operating three shifts round the clock, the period during which the employment of minors is absolutely prohibited is governed by the same rules.

549. At the level of international legislation, Argentina has ratified the ILO Minimum Age Convention (No. 138 of 1973), thus undertaking a firm commitment to take action to abolish or restrict child labour.

Province of Santa Fe

550. The Employment Unit, in accordance with the policies of the province's Office for Children, Women and the Family, promotes measures for the training of adolescents, young people, women and families at social risk.

551. The Office is addressing the situation of the members of these categories who are obliged to assume responsibility for finding productive jobs in society.

552. They are not properly prepared to do so, for most of them have not completed their schooling and have received little on-the-job training. Furthermore, the labour market demands a high level of comprehensive training and the ability to adapt to the various tasks which a given job may require; a broad section of the population is thus excluded from the system.

553. In these circumstances, adolescents and young people have a heightened feeling of insecurity and vulnerability, which generates further uncertainties as they seek to carry out an independent life project.

554. What is needed in this situation is the provision of a space for comprehensive training, where adolescents and young people will be able to discover and develop their abilities.

Province of Chubut

555. The Act on the comprehensive protection of children and the family establishes children's right to comprehensive training to enable them to find jobs.

556. The Act also stipulates that children must be protected against all kinds of economic exploitation and the performance of work which may be dangerous or harm their health or integrated development and is prohibited on the ground of their age.

557. The provincial State is required to take appropriate measures to prevent and suppress the exploitation of children and infringements of the current labour legislation.

558. It must also introduce programmes to help and support the families of children suffering exploitation.

559. Children who work in violation of the labour legislation in order to help maintain their families must be incorporated in family support programmes which will put an end to this situation.

Article 33. Protection against the illicit use of narcotic drugs and prevention of the use of children in their production and trafficking

560. Within the Secretariat for the Prevention of Drug Abuse and the Fight against Drugs Trafficking, which reports to the Office of the President, the Under-Secretariat for Prevention and Technical Assistance works in collaboration with other agencies concerned with these matters, in particular the National Council for Children and the Family of the Secretariat for Social Development, which also reports to the Office of the President.

561. In addition, this Under-Secretariat carries out prevention activities of an educational nature and supports and coordinates the work of governmental and non-governmental agencies concerned with training, technical assistance and awareness-raising in connection with problems of drug abuse.

562. Since prevention is one of the tools for protecting children against drug abuse, the Under-Secretariat's Prevention and Assistance Office schedules conferences, days, seminars, courses, discussion groups, etc., where special emphasis is given to strengthening the means of protection - through the family and the community - in order to help to reduce risk patterns of behaviour among children likely to place them at risk.

563. This work is supported by the distribution of informational and educational materials.

Article 34. Protection against sexual exploitation and sexual abuse

564. Argentina is taking an active part in the open-ended inter-sessional working group on a draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

565. In its comments on the report of the working group on its fourth session (E/CN.4/1998/103) Argentina stated its position to the effect that a clear distinction must be made between the protection provided by article 34 and the protection provided by article 35 of the Convention. It maintained that for the purposes of drafting a protocol consistent with those two complementary provisions "it is evident that a distinction is made between the case of protection against the sexual exploitation of children (art. 34) and the case of the sale of or traffic in children for any purpose or in any form (art. 35). If the

purpose of that international instrument had been to deal with the two questions by linking them closely as being related in nature and kind, it would be impossible to explain the express use of the terms "for any purpose or in any form" at the end of article 35. To maintain that article 35 refers to sale for the purpose of sexual exploitation or abuse entails a serious difficulty of a logical nature which would be hard to resolve".

566. Attention is also drawn in this connection to the information given under article 19 of the Convention.

Article 35. Measures to prevent the abduction, the sale of or traffic in children

567. There is no doubt that intercountry adoption has led to many cases of unlawful adoption in violation of the rights of the child involving culpable acts of child abduction. Of interest here is the study on "Sale of and traffic in children in Argentina" produced in 1989 by Defence for Children International and the Secretariat for Human Development and the Family of the Ministry of Health and Social Welfare, which was referred to under article 11.

568. In its comments on the report of the working group, mentioned in connection with article 34, Argentina set out the criteria which, in its view, should carry most weight in the drafting of definitions of "sale of children" and "child prostitution" for the purposes of the optional protocol. It argued the need to have a definition of "sale of children" which covered the different forms that that criminal phenomenon could take, in other words to treat the "sale" as an act to be condemned in itself, regardless of its purpose or any remuneration agreed upon. In the case of the second definition Argentina argued that, for the purposes of characterizing as unlawful - without giving rise to differing interpretations - any activity relating to sexual "services" or "activities" of a child, the word "unlawful" should be deleted from the draft text.

569. Without prejudice to any of the information given earlier in respect of the measures taken to prevent the abduction, sale of or traffic in children, it must be added that Argentina is currently engaged in the legislative procedures for approval of the Inter-American Convention on International Traffic in Minors, adopted at the fifth Inter-American Specialized Conference on Private International Law, article 1 of which states:

> "The purpose of the present Convention, with a view to protection of the fundamental rights of minors and their best interests, is the prevention and punishment of the international traffic in minors as well as the regulation of its civil and penal aspects".

570. The rules contained in this Convention, which Argentina intends to approve, are compatible with the other international instruments to which it is a party, although the reservation entered by Argentina at the time of its ratification of the Convention on the Rights of the Child should be kept in mind.

571. The approval of the Inter-American Convention by Argentina's Legislature would provide, by reason of its penal, civil and procedural effects, an effective tool for waging the hemisphere's battle against the crime of trafficking in minors.

Article 36. Protection against all other forms of exploitation

572. Attention is drawn to the information given under article 19 of the Convention.

Article 37. Torture, prohibition of capital punishment, and personal liberty

573. Argentina does not apply the death penalty. Article 18 of the 1853/1860 Constitution states that all forms of torture or beating are abolished for ever and throughout the Republic.

574. As a result of the 1994 reform, article 75 (22) of the Constitution accords constitutional rank to a number of international human rights instruments, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

575. In the inter-American sphere, Argentina contributed to and strongly promoted the text of the Inter-American Convention on Forced Disappearance of Persons, which was adopted in Belem do Para on 9 June 1994 and entered into force on 28 March 1996. States parties to this instrument undertake not practise, permit or tolerate the forced disappearance of persons, even under a state of emergency. A state of emergency may not be used to justify the forced disappearance of persons; indeed, all judicial guarantees must remain in force at such times.

576. In addition to its main objective of eradicating the practice of torture in any place and at any time, the Convention also aims to ensure that public officials who commit such acts do not enjoy immunity, especially when their action amounts to an abuse of authority.

577. Attention is drawn by way of example to the following measures taken by the provinces with regard to juveniles in conflict with the law.

Province of San Juan

578. San Juan has introduced a programme of comprehensive care for juveniles in conflict with the criminal law with the principal objective of introducing measures for the care of such juveniles in the 14-19 age range. The programme's specific aim is to provide preventive treatment and assistance for juveniles deprived of their liberty who are first offenders and have been referred by the juvenile courts. The programme has two projects:

Juveniles confined in the Chimbas Institute;

Juvenile first offenders brought before the juvenile courts.

Province of Tierra del Fuego, the Antarctic and the South Atlantic Islands

579. This province is operating a probation programme consisting of non-institutional measures carried out in the social environment and the family of juveniles in conflict with the criminal law as an alternative to deprivation of liberty. Basically, the programme operates an individual system of monitoring which emphasizes the positive characteristics and the potential of the juvenile and his family and community on the basis of strategies designed to work in harmony with each other at all stages rather than representing just the final stage of an uncoordinated system. The programme encourages the community to take an active part in correcting the antisocial behaviour of marginalized juvenile offenders and in facilitating their reintegration in the life of society. It aims to consolidate the positive elements of what is a natural system for the correction of juveniles in conflict with the law. It advocates community life and the exercise of liberty as a better setting for development than confinement in an institution.

580. This programme of provincial scope dealt with some 80 cases in 1997. It operates mainly in Ushuaia, coordinating referrals with the Judiciary; in Río Grande not all of the juvenile offenders have

been referred, although most of the cases are taken over by the programme by simple administrative recourse.

581. One point to bear in mind is that 80% of the offences committed by juveniles do not reveal any profound commitment to crime (either the case involves a misdemeanour - usually an offence against property: theft, robbery, criminal damage, etc., or it involves a one-off offence without evidence of ingrained criminal habits). The province still does not have any secure institutions for housing juveniles. Nor does it have any cases of juveniles arrested for serious crimes (murder, for example).

582. It should also be pointed out that, in order to safeguard the rights of the juveniles arrested for various reasons by the provincial police (after committing crimes or minor offences or for preventive purposes) and taken to a police station, the competent administrative authority - the province's Office for Children and the Family - has them attended to by social workers under passive custody from the time they enter the police station until they are handed over to their parents, guardians or other legal representatives. The family and juvenile court of the judicial district in question is immediately informed by telephone. This communication does not imply that the case is being brought before a court. This arrangement has proved extremely effective in ensuring children's comprehensive protection.

Province of Entre Ríos

583. At the request of the provincial Judiciary, the province's Children's Council has attended to 2,800 juveniles under its periodic monitoring and probation programmes. Under these programmes the children remain with their families and an effort is made to strengthen the bonds of affection with their parents and avoid removal from the family.

584. Consideration is currently being given to a programme designed to tackle from all angles the problems of juveniles in conflict with the law and suffering severe behavioural disturbances. A project is being formulated for the establishment of an "intensive support home", which will comply with all the requirements of the national and international legislation and provide appropriate high-impact treatment to facilitate the juveniles' recovery.

585. The province has also established, following a pilot project, a system of community care, in which community workers provide and monitor individual treatment for juvenile offenders. The system is catering for 50 children.

586. The Children's Council also created a private agencies unit to coordinate the private homes providing full and part-time institutional care and supports undertakings of the "day-centre" type. Its programmes cover 6,100 of the province's children (130 institutions).

587. See the annex for further statistical information.

Province of Misiones

588. Juveniles arrested by the provincial police are kept at police stations in the capital and the interior. Depending on their age and the alleged offence, they may be collected by their parents or a family member, or in exceptional cases they may be referred to an alternative programme run by the Office for Children, the Family and Disabled Persons or to an NGO residential institution; in more serious cases a court may order boys to be transferred to the juvenile prison in Posadas and girls to the women's prison.

589. The rehabilitation of juveniles deprived of their liberty is a responsibility of the Judiciary which it discharges through the Office of the Government Procurator, the courts and the Ombudsman's Office; the Executive discharges its responsibilities in this area through the Office for Children, the Family and Disabled Persons. This Office performs the functions of the technical/administrative agency referred to in Act No. 10.903 on the wardship minors.

590. Responsibility for security rests with the provincial police and the Directorate-General for Penal Institutions.

591. An attempt is being made to overcome this evident fragmentation of responsibility among so many institutions by suitable arrangements for coordination of their work.

592. However, the key point in respect of compliance with the Convention is the lack of any provincial legislation on children. The real concern about this problem is manifested in a project submitted to the Governor by the three authorities involved and in the recent establishment (on 27 November 1997) of two family courts, which will have jurisdiction over the cases stipulated in the Civil Code.

593. The principal aim of the two residential facilities opened in early 1998 for juveniles in conflict with the law is to offer such juveniles a home whose internal arrangements resemble those of a family, with adults responsible for instruction and discipline but with an organizational system different from the one usually found in care institutions. These two establishments provide the kind of residential care which enables the children to experience a process of affective socialization different from what they had experienced before admission and which fosters their healthy personal development and a self-image which will ease their reintegration in society.

594. The project on residential care of juveniles in conflict with the law is being implemented jointly by the Ministry of Social Welfare, Women and Youth and the National Council for Children and the Family. Many members of local communities have committed themselves to the project in the search for valid solutions to the juvenile problem.

595. There has been an increase in recent years in the number of children exhibiting serious behavioural problems and a tendency to be socially disruptive and self-destructive, resulting in intervention by the police followed by judicial proceedings and protective confinement.

596. The targets of the project designed for tackling this problem are male juveniles aged under 18 in conflict with the law exhibiting bad behaviour and a lifestyle injurious to themselves or other persons (problems of alcoholism, drug use, antisocial behaviour, criminal activity, etc.) but not any psychiatric pathology, mental disability, drug addiction or serious neurological disturbance.

597. The juveniles are referred by the judicial authorities or a protection agency following an evaluation report by the technical team, on the basis of which a decision is taken on the appropriateness of this kind of treatment.

598. The technical team from the residential institution makes this evaluation in the place where the juvenile is being held and works with him to inform him about the proposal and persuade him to accept it.

599. Since the residential institution is there to provide treatment, this prior work with prospective inmates is essential, for the treatment begins at this stage with the juvenile's informed acceptance of the proposal.

600. Juveniles remain in the institution until they have conquered their personal problems or until the institution's goal of social reintegration has been attained.

Province of Santa Fe

601. The province's approach to the specific problems of juveniles in conflict with the criminal law entails the comprehensive performance by the Office for Children, Women and the Family of one of the most direct functions entrusted by the provincial State to the Office as the administrative agency, and therefore part of the Executive, for safeguarding the exercise of the rights of the child.

602. When dealing with juveniles who have broken the law the police do not disregard the considerations of prevention, promotion and integrated care which motivate other organizations, but rather they give additional effect to those considerations by proceeding in the manner best suited to each case, recognizing the fact that juvenile offences are the result of prior situations of need, marginalization and deprivation exacerbated by the characteristics of the juveniles' adolescent stage of development.

603. This programme has three subprogrammes:

1. Evaluation and counselling

604. Professionals work with juveniles while they are being held in police stations in order to produce a report for the juvenile court dealing with the matter containing a psycho-social evaluation of the juvenile and his family and guidance on how best to proceed with the case. This work was done from the initiation of the subprogramme and during 1995 and 1996.

605. In 1996 approaches were made to the Government Procurator for permission to do more work with and offer greater assistance to detained juveniles; it was suggested that they should be held in three police stations (Nos. 2, 5 and 6) in Rosario whose buildings and security arrangements seemed to be the most suitable. Older detainees were transferred to other stations.

606. This subprogramme's aim is to provide a weekly list of detainees who have not been visited by their families and to encourage the families to reestablish the family link. It also provides supervision of the juvenile from the time of his release until he is taken over by the programme to which he has been referred. Discussion workshops are held with groups of 15 juvenile detainees to give them an opportunity to talk about their feelings, to resolve group difficulties, and to improve their life in detention by encouraging a willingness to discuss such problems and trying to overcome individual resistance.

2. Probation

607. Probation is one of the measures available under the integrated system of professional care for juveniles aged 13 to 18 who are in conflict with the criminal law. Non-institutional treatment is provided as an alternative to confinement and in some cases as a means of treatment and monitoring after release.

608. The professional team consists of psychological workers who address the social and psychological aspects of the child's current and past problems. The treatment measures are carried out in the child's family home, in his own home, or in one of the places he frequents.

3. The Granja (Farmhouse) Centre

609. This subprogramme is designed as a treatment unit for the care, development and psycho-social rehabilitation of the inmates. The measures to which the inmates are subjected, the activities in which they take part and the professional care which they receive form part of a programme of individual treatment designed specifically for them. One of the aims is that the juveniles should maintain active contacts with the community. The subprogramme caters for about 60 male adolescents. The reasons for their confinement include theft, aggravated theft, homicide, robbery, rape, threatening behaviour, robbery with homicide, and attempted robbery.

Article 38. Children in armed conflicts

610. Argentina entered a reservation to article 38 at the time of ratifying the Convention, declaring: "... [Argentina] would have liked the Convention categorically to prohibit the use of children in armed conflicts; such a prohibition exists in its domestic law which, by virtue of article 41 of the Convention, it shall continue to apply in this regard".

611. It is important to point out that by Decree No. 1537 of 29 August 1994 the President of the Republic made military service voluntary. Voluntary military service was then regulated by the National Congress in Act No. 24.429, adopted on 14 December 1994 and promulgated on 5 January 1995. The regulations contained in this Act were confirmed by Decree No. 978 of 6 July 1995. Under article 19 of the Act, which provides that in the exceptional event that the established quotas are not filled by volunteer recruits the Executive may, on substantiated grounds and with the statutory authorization of the Congress, conscript citizens who have reached 18 years of age in the year in question for a period of service not exceeding one year.

Article 39. Measures to promote physical and psychological recovery and social reintegration of the child

612. As indicated in the Committee's general guidelines (CRC/C/5, para. 23 (a) (ii)), the information given on this point should address the recovery of children victims of armed conflicts. It is clear from the information given above in respect of article 38 that in no cases do children participate directly in hostilities.

613. The allowances paid to parents who participated or might have participated in hostilities - in the armed conflict in the South Atlantic in 1992, for example - cover all the members of the family.

Article 40. Due process

614. Article 8 of the Criminal Code stipulates that minors and women shall serve their sentences in special establishments.

615. Act No. 22.278 of 25 August 1980, as amended by Act No. 22.803, established the prisons regime applicable to minors. It reads in part:

> "Article 1. No punishment may be imposed on any person under the age of 16 years. Nor may any punishment be imposed on a person under the age of 18 years for a privately actionable offence, an offence carrying a custodial sentence of not more than two years, or an offence punishable by a fine or disqualification.
>
> If any charge is brought against such persons, the judicial authority shall make an interim order, verify the offence, arrange an interview with the juvenile concerned and with his parents

or guardian, and order the relevant reports and expert assessments of his personality, his family and his social situation.

If necessary, it shall order the juvenile to be transferred to an appropriate place for the purposes of closer study for as long as may be necessary.

If it is apparent from these assessments that the juvenile has been abandoned, is in need of assistance, is in material or moral danger or has behavioural problems, the court shall issue, in the form of an order supported by due grounds, a final ruling concerning the action to be taken, after having heard the parents or guardian.

Article 2. Punishment may be imposed on a person between the ages of 16 and 18 years who has committed an offence other than the ones specified in article 1.

Article 3. The court's ruling shall specify:

(a) The court's mandatory custody of the juvenile with a view to ensuring that he receives suitable training as part of his comprehensive protection. To this end, the court may order any measures which it deems appropriate for the juvenile but which shall always be subject to amendment in his interest;

(b) The consequent restriction of the exercise of parental authority by the parents or guardian to the areas fixed by the judicial authority and in accordance with its instructions, without prejudice to their duty to fulfil the inherent obligations of parents and guardians;

(c) The award of custody when necessary.

The enforcement of a final ruling may be terminated at any time by a substantiated judicial order and shall cease for all legal effects when the juvenile reaches the age of majority.

Article 6. Custodial sentences imposed on minors by the courts shall be served in specialized institutions".

The full text of the Act will be found in the annex.

616. Juvenile court proceedings within the jurisdiction of the Federal Judiciary and the ordinary courts of the Federal Capital and the National Territories are governed by the Code of Criminal Procedure (Act No. 23.984 of 1991).

617. The statement of grounds accompanying the text of the reform noted that the general procedural rules will be subject to exceptions in proceedings against juveniles aged under 18 depending on the modalities and necessities of individual cases: special detention regime, detention separate from adults, guardianship measures, involvement of a juvenile procurator, minimum and only essential attendance by juveniles in proceedings before examining magistrates and in court, in camera proceedings, attendance by parents or guardians, possibility of amending the measures adopted for reasons of security or education, etc.

618. The relevant procedural rules contained in the Code are cited below.

General rule

"Article 410. Proceedings against juveniles aged under 18 shall be conducted in accordance with the common provisions of this Code, except in the cases specified in this chapter".

Detention

"Article 411. A juvenile shall be held in detention only when there are grounds for believing that he will not comply with the summons, attempt to destroy the evidence of the offence, make agreements with his accomplices, or induce persons to make false statements.

In such cases the juvenile shall be housed in a special unit separate from adults, where he shall be treated in the light of the nature and mode of execution of the offence which he is alleged to have committed, his age, his degree of physical development, and his other characteristics and potential relations with other detainees.

No order shall be made in respect of a juvenile before the juvenile procurator has submitted his report".

Precautionary measures

"Article 412. The presence of juveniles during proceedings before examining magistrates shall be avoided as far as possible. The court may make an interim order in respect of any juvenile whose case it is considering and entrust him, for the purposes of his care and education, to his parents or any other person or institution which, by virtue of their background and circumstances, offer guarantees of the juvenile's moral welfare; such orders may not be made before examination proceedings have been conducted, the parties have been heard, and the juvenile procurator has submitted his report.

In such cases the court may appoint a representative to ensure the juvenile's direct protection and supervision and to submit periodic reports to the court concerning the juvenile's conduct and living conditions".

Legal incapacity

"Article 76 (3). If the accused is aged under 18 years his rights as a party may also be exercised by his parents or guardian".

"Article 413. In addition to the common rules, the following rules shall also be observed during hearings:

(1) Hearings shall be held in camera and may be attended only by the procurator and the other parties, their legal counsel, parents or guardians, and other persons having a legitimate interest in being present;

(2) The accused shall be present during the hearing only when this is essential and he shall leave the courtroom when the purpose of his presence has been achieved;

(3) Attendance by a juvenile procurator is obligatory, non-attendance rendering the hearing invalid, and he shall have the powers accorded to defence counsel even when the defendant has his own counsel.

(4) The court may hear the juvenile's parents or guardian, teachers, any employers or superiors which he has or may have had, and the care authorities who are able to give information relevant to the assessment of his personality. Declarations of this kind may be supplemented by written reports.

The provisions of article 78 shall also be observed".

Mandatory mental examination

"Article 78. The defendant shall undergo a mental examination, provided that the offence with which he is charged carries a sentence of not less than 10 years' imprisonment or if he is a deaf-mute or aged under 18 years or over 70 years, or if a protective measure is likely to be ordered".

Reconsideration

"Article 414. The court may, of its own motion or on the application of a party, reconsider the measures of protection or education ordered in respect of a juvenile. To this end it may conduct any appropriate examination proceedings and must hear the interested parties before giving its ruling".

New general regulations on the treatment of convicted persons

619. Decree No. 303/96 approved new regulations on the treatment of convicted persons and revoked the regulations previously in force.

620. Title 1 sets out the general principles, according to which juveniles aged under 18 must not be held in prisons or other detention facilities operated by the Federal Prisons Service, and stipulates that the purpose of the prisons system, in addition to providing secure custody for convicted persons, must be to ensure that such persons maintain or acquire socially acceptable standards of behaviour and consideration for others.

621. The following tables concerning inmates of the Federal Prisons Service will be found in the annex: (1) Age structure of the prison population; (2) Changes in the composition of the female prison population; (3) Changes in the composition of the male prison population aged under 21.

Bill on the criminal responsibility of juveniles

622. Without prejudice to the information given in preceding paragraphs, attention is drawn to a bill on the criminal responsibility of juveniles; this bill is the fruit of a consensus among all the sectors, institutions and scientific disciplines concerned with the juvenile problem, including the Ministries of Justice and Education, numerous members of the Judiciary, the Office of the Ombudsman, the Office of the Procurator-General, parliamentary advisers, health professionals, representatives of UNICEF Argentina, etc.

623. The first agreement, reached with evident unanimity, was on the need to change the prevailing paradigm of the legislation in force and adapt it to the new concept of the "comprehensive protection of the child" framed by the Convention.

624. The immediate consequence was agreement on the need to remove juveniles from the adult penal system and create a specific regime of juvenile responsibility. The basic idea was to give effect to article 3 of the Convention and in so doing reconcile society's concern to see offenders prosecuted with the requirements of the integrated training of young people on their journey to adulthood.

625. The bill's structure departs from the regime governing adult offenders, for under that regime it is impossible, as experience has shown, to hold juveniles criminally responsible and at the same time respect their rights and safeguards.

626. In contrast, the new criminal responsibility regime contributes to the comprehensive protection of children by making it possible to get to grips with conduct which, being criminal conduct, is at odds with the most elementary community values and works against children's social integration; the new regime makes it easier to work with children in order to modify such conduct.

627. From this standpoint, the first need was to replace the penalties provided in he Criminal Code by other measures which take full account of the "best interests of the child" both in their personal and in their social aspects.

628. Everyone involved in the drafting of the bill agreed that the age of criminal responsibility fixed in the existing criminal legislation should not be lowered, and that such a move could be considered only in the context of the proposed new sanctions of an educational nature. There was also agreement on the need for juvenile offenders to accept that their conduct is antisocial and for them to be able to set foot on a path of inclusion in rather than exclusion from their society.

629. The other focus of the proposed reform is to avoid the severe hidden penalty currently implied by the discretionary powers of the judicial authorities to order the imposition of measures on juveniles without first establishing some degree of criminal responsibility. The bill therefore proposes the abolition of these discretionary powers and the removal from the scope of criminal responsibility of all those situations involving juveniles which require public or private proceedings to be instituted for the protection of their rights.

Content of the bill

630. The legislation will apply to persons aged under 21. Persons aged under 21 but over 14 may bear responsibility but they will be subject to a special regime determined by the Schedule of Criminal Responsibility.

631. The first chapter defines the material and personal scope and states expressly that the safeguards provided by the bill shall apply to all children regardless of whether they are subject to the system which it establishes. Accordingly, the rules contained in the procedural codes of the provinces, being specific and detailed systems of safeguards of due process, will supplement the safeguards contained in the new Schedule of Criminal Responsibility.

632. The second chapter, on general and specific safeguards, includes safeguards connected with jurisdiction, defence and freedom of movement. It is important to stress the inclusion of the requirement of a special judicial organ having competence, exclusive competence as far as possible, in matters concerning juveniles; this requirement is also stipulated in the chapter on the Government Procurator's Office. This point is made twice, because a special judicial organ will be better able to understand children and their problems and therefore order suitable care on the basis of their personal and social background.

633. The third chapter contains the punitive/educational measures. A schedule of criminal responsibility implies a set of such measures which can be used to provide different responses in the light of the offence. The bill includes measures ranging from guidance and support in the form of warnings, the obligation to make good the damage caused, and the performance of community service to measures which restrict freedom of movement, such as probation, weekend detention, and confinement under a semi-open or a closed regime, depending on the type of crime or offence.

634. In order to graduate the severity of the socio-educational measures the bill contains a scale which divides the age range into three groups: 14-16, 16-18 and 18-21.

635. The seventh chapter regulates the principal functions of the Government Procurator's Office, separating out the specific functions of prosecution, defence and expert testimony. The basic idea underlying the intervention of members of this Office is that both the defence counsel and the technical experts should remain the same throughout the proceedings, thus protecting the privacy of the juvenile in question and avoiding situations in which he is subjected repeatedly to the same expert examinations, which do nothing for his integrity.

636. The full text of the bill will be found in the annex.

Province of Misiones

637. The three powers submitted a joint bill to the Governor in order to make good the lack of any provincial legislation on the protection of children.

638. Two family courts were created in November 1997; they will be competent to hear the cases specified in the Civil Code.

Province of Chubut

639. By means of Act No. 37 (Organizational Act), as amended by Act No. 3.193, the Judiciary created the offices of ombudsman for children and ombudsman for disabled persons under the Government Procurator for Guardianship, which will be responsible for the mandatory intervention stipulated in article 59 of the Civil Code.

640. Accordingly, under Chubut's procedural legislation intervention by these ombudsmen is mandatory (otherwise the proceedings are invalid) in all cases involving minors.

641. The province is divided into five jurisdictions, each having ombudsmen for children and for disabled persons.

642. In criminal cases the technical defence of minors is officially conducted by the general defence lawyers in each of the five jurisdictions.

643. The reform of the Constitution led to a procedural innovation: article 50, mentioned above, guarantees the application of the safeguards of criminal procedure, as a minimum, in guardianship proceedings.

644. In addition, the latest reform of the Code of Criminal Procedure introduced the requirement of the participation of victims in the proceedings and provided guarantees of their safety. To this end, the Judiciary created the service for assistance to victims of crime, which is being introduced in the town of Trelew as a pilot project.

645. The Legislature is currently considering a bill on the comprehensive protection of children and the family, the second part of which provides for the creation of juvenile criminal courts and family courts.

646. Article 19 of this bill stipulates that the provincial State shall provide the following rights and judicial safeguards:

- The right be presumed innocent until proved guilty;
- The right to due process, to which end defendants may produce in their defence any evidence which they deem fit;
- The right to the technical assistance of a lawyer of one's choice or one provided free of charge by the State;
- The right to be heard in person by the competent authority;
- The right to request the attendance of one's parents or other legally responsible persons from the time of arrest and at any stage of the proceedings;
- The right to have parents, guardians or any other person to whom the juvenile has an emotional attachment to be informed immediately of his arrest, the place where he is being held, the alleged offence, and the court and police unit dealing with the case;
- The right to remain silent;
- The right to strict confidentially in respect of any matters connected with the arrest and/or detention of a juvenile or with the alleged offence.

647. In the event of deprivation of liberty, a juvenile has the right to communicate by telephone or by any other means with members of his family or with any other person to whom he has an emotional attachment.

Autonomous City of Buenos Aires

648. In December 1998 the City's Legislature adopted its Act on the comprehensive protection of the rights of the child. This Act creates a decentralized system of children's ombudsmen covering the whole City and reporting to a future Council on the Rights of the Child, which will be self-governing and have financial independence.

649. The Act sets out the principles and safeguards of the rights of the child in accordance with the Convention and revokes for the jurisdiction of the Federal Capital the custodial approach of Act No. 10.903 (adopted in 1919) taken by the juvenile justice system.

650. The new Act regards children as subjects of law and places the emphasis on the prevention and early detection of problems and on integration in the family and the community.

651. It contains safeguards for children accused of crimes or misdemeanours and for their parents an other legally responsible persons. If a child is arrested, he may call an adult of his choice within the hour. Safeguards are also provided for exercise of his right to education. For example, he may receiv public education and be awarded the corresponding qualifications without producing a national identity

card if he does not have one. The future Council will include representatives of NGOs working in this area, of the ombudsmen's offices, and of the Youth Council, also to be created.

652. The Council on the Rights of the Child will also be responsible for formulating public policy on children and for monitoring public agencies and NGOs working with children. In addition, bodies running shelter programmes will be able to admit children in emergency cases without authorization by a court, but they must report the facts to a court within 12 hours.

653. Many of these policies will be implemented on a decentralized basis by the local ombudsman's office. The functions of these offices include counselling and assistance in situations of violation or threat of violation of children's rights and the provision of the services of a lawyer free of charge. They may also appear as legitimate parties in judicial proceedings.

654. When a nursing mother is detained, the City government guarantees the right of breastfeeding for at least the first year of her baby's life and the right not to be separated from the baby.
